Montana Legislative History

Chapter: 712 Session L: 2023

Bill Number: House 128

Checklist of Bill History

History and Final Status Sheet	X
Introduced Bill	X
Fiscal Note	X
Third Reading Bill	X
Final Version of Bill	X

House

Committee:
Business and Labor

Hearing Date(s):
Feb. 1 and 14, 2023
March 24, 2023

Senate

Committee: Business, Labor and Economic Affairs

Hearing Date(s):
April 7, 17, and 20, 2023

Committee Report:

Conference Committee

Hearing Date(s): n/a

Compiler Notes

Compiled by:

smg

Date: January 18,

2024

Notes:
February 1, 2023
February 14, 2023
March 24, 2023
April 7, 2023
April 17, 2023
April 20, 2023

Bill Draft Number: LC0162
Bill Type - Number: HB 128
Short Title: Generally revise marijuana laws
Primary Sponsor: Joshua Kassmier (R) HD 27
Chapter Number: 712

Bill Actions - **Current Bill Progress:** Became Law

Bill Action Count: 69

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/22/2023			
(H) Signed by Governor	05/22/2023			
(H) Transmitted to Governor	05/12/2023			
(S) Signed by President	05/11/2023			
(H) Signed by Speaker	05/11/2023			
(H) Returned from Enrolling	05/11/2023			
(C) Printed - Enrolled Version Available	05/11/2023			
(H) Sent to Enrolling	05/03/2023			
(H) 3rd Reading Passed as Amended by Senate	05/02/2023	57	39	
(H) Scheduled for 3rd Reading	05/02/2023			
(H) 2nd Reading Senate Amendments Concurred	05/02/2023	59	40	
(H) Scheduled for 2nd Reading	05/02/2023			
(S) Returned to House with Amendments	04/26/2023			
(S) 3rd Reading Concurred	04/25/2023	33	16	
(S) Scheduled for 3rd Reading	04/25/2023			
(S) 2nd Reading Concurred	04/24/2023	31	19	
(S) 2nd Reading Motion to Amend Failed	04/24/2023	20	30	
(S) Scheduled for 2nd Reading	04/24/2023			
(C) Printed - New Version Available	04/21/2023			
(S) Committee Report--Bill Concurred as Amended	04/21/2023			(S) Business, Labor, and Economic Affairs
(S) Committee Executive Action--Bill Concurred as Amended	04/20/2023	7	3	(S) Business, Labor, and Economic Affairs
(S) Rereferred to Committee	04/17/2023			(S) Business, Labor, and Economic Affairs
(S) Committee Report--Bill Concurred	04/17/2023			(S) Business, Labor, and Economic Affairs
(S) Committee Executive Action--Bill Concurred	04/17/2023	10	0	(S) Business, Labor, and Economic Affairs
(S) Hearing	04/07/2023			(S) Business, Labor, and Economic Affairs
(S) Referred to Committee	04/04/2023			(S) Business, Labor, and Economic Affairs

(S) First Reading	04/04/2023			
(H) Transmitted to Senate	04/04/2023			
(H) 3rd Reading Passed	04/03/2023	59	38	
(H) Reconsidered Previous Action; Remains in 3rd Reading Process	03/31/2023	57	37	
(H) Revised Fiscal Note Printed	03/30/2023			
(H) 3rd Reading Failed	03/30/2023	46	53	
(H) Revised Fiscal Note Signed	03/30/2023			
(H) Revised Fiscal Note Received	03/29/2023			
(H) 2nd Reading Passed	03/29/2023	57	43	
(H) 2nd Reading Motion to Amend Failed	03/29/2023	36	64	
(H) Revised Fiscal Note Requested	03/28/2023			
(C) Printed - New Version Available	03/27/2023			
(H) Committee Report--Bill Passed as Amended	03/25/2023			(H) Business and Labor
(H) Committee Executive Action--Bill Passed as Amended	03/24/2023	19	0	(H) Business and Labor
(H) Rereferred to Committee	02/15/2023			(H) Business and Labor
(C) Printed - New Version Available	02/14/2023			
(H) Committee Report--Bill Passed as Amended	02/14/2023			(H) Business and Labor
(H) Committee Executive Action--Bill Passed as Amended	02/14/2023	10	9	(H) Business and Labor
(H) Hearing	02/01/2023			(H) Business and Labor
(C) Amendments Available	01/13/2023			
(H) Fiscal Note Printed	01/09/2023			
(H) Fiscal Note Signed	01/06/2023			
(H) Fiscal Note Received	01/06/2023			
(H) Hearing Canceled	01/04/2023			(H) Business and Labor
(H) First Reading	01/02/2023			
(H) Referred to Committee	12/21/2022			(H) Business and Labor
(H) Fiscal Note Requested	12/21/2022			
(C) Introduced Bill Text Available Electronically	12/21/2022			
(H) Introduced	12/14/2022			
(C) Fiscal Note Probable	12/14/2022			
(C) Draft in Assembly	11/22/2022			
(C) Executive Director Review	11/22/2022			
(C) Bill Draft Text Available Electronically	11/22/2022			
(C) Draft in Final Drafter Review	11/22/2022			
(C) Draft in Input/Proofing	11/21/2022			
(C) Bill Draft Text Available Electronically	11/18/2022			
(C) Draft in Final Drafter Review	11/18/2022			
(C) Draft in Input/Proofing	11/10/2022			
(C) Draft to Drafter - Edit Review	11/10/2022			
(C) Draft in Edit	11/07/2022			
(C) Draft in Legal Review	10/31/2022			
(C) Draft to Requester for Review	10/18/2022			

(C) Draft Request Received	07/26/2022

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Economic Affairs Interim Committee	
Drafter	Sullivan	Erin
By Request Of	Economic Affairs Interim Committee	
Primary Sponsor	Kassmier	Joshua

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Alcohol and Drugs		Simple	ALC
Appropriations (see also: State Finance)	Appropriation	Simple	APP
Local Government (see also: City Subjects; County Subjects)		Simple	LG

Additional Bill Information

Fiscal Note Probable: Yes
Preintroduction Required: Y
Session Law Ch. Number: 712
DEADLINE
Category: Appropriation Bills
Transmittal Date: 04/04/2023
Return (with 2nd house amendments) Date: 04/28/2023

Section Effective Dates

Section(s)	Effective Date Date Qualified
Sections 1, 2, 4-7, 9, 10, 16, 19, 22, 24-29, 31, and 32	01-OCT-23
Sections 3, 8, 11, 13, 20, 21, and 33	22-MAY-23
Sections 12, 14, 15, 17, 18, 23, and 30	01-JUL-23

AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING REPORTS TO THE LEGISLATURE; CLARIFYING PERMISSIVE ACTS AND EXCEPTIONS FOR REGISTERED CARDHOLDERS; CLARIFYING LIMITATIONS OF THE MONTANA MARIJUANA REGULATION AND TAXATION ACT; CLARIFYING PENALTIES; REVISING PENALTIES FOR SUSPENDED LICENSES; COMBINING SECTIONS ON LEGISLATIVE MONITORING; CLARIFYING LEGISLATIVE MONITORING DUTIES; REMOVING THE IDENTITY DISCLOSURE REQUIREMENT FOR LICENSEE COMPLAINTS; REMOVING OUTDATED DATES; REMOVING THE BACKGROUND CHECK REQUIREMENT FOR CERTAIN INDIVIDUALS; EXTENDING THE MORATORIUM FOR NEW MARIJUANA LICENSES; TRANSFERRING AUTHORITY OVER MARIJUANA TESTING LABORATORIES; CLARIFYING THE MINIMUM AGE TO ENTER A MARIJUANA BUSINESS; CLARIFYING LEGISLATIVE INTENT ON A CULTIVATOR'S ABILITY TO INCREASE TIERS; REVISING REQUIREMENTS FOR A COMBINED-USE LICENSE; REVISING REPORTING REQUIREMENTS FOR EMPLOYEE CONVICTIONS OR VIOLATIONS; COMBINING SECTIONS ON FRAUDULENT REPRESENTATION; CLARIFYING THE FORMULA FOR MUNICIPAL TAX REVENUE ALLOCATION; REMOVING CONFLICTING NOTICE REQUIREMENTS; EXTENDING RULEMAKING AUTHORITY; REVISING DEFINITIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 5-11-222, 15-64-101, 16-12-102, 16-12-104, 16-12-106, 16-12-108, 16-12-109, 16-12-110, 16-12-125, 16-12-129, 16-12-201, 16-12-202, 16-12-203, 16-12-206, 16-12-207, 16-12-208, 16-12-209, 16-12-210, 16-12-222, 16-12-223, 16-12-225, 16-12-226, 16-12-301, 16-12-302, 16-12-310, 16-12-311, 16-12-508, AND 20-1-220, MCA; REPEALING SECTIONS 16-12-524 AND 16-12-532, MCA; AND PROVIDING EFFECTIVE DATES.

WHEREAS, during the 2021-2022 interim, the Economic Affairs Interim Committee received testimony relating to the interpretation and implementation of the Montana Marijuana Regulation and Taxation Act; and

WHEREAS, specifically, the committee received testimony that section 16-12-223, MCA, allowed only qualifying marijuana cultivator licensees to increase production tiers at the licensee's renewals and not at the

licensee's discretion; and

WHEREAS, the committee disagreed with this interpretation and provided its analysis; and

WHEREAS, the issue was resolved to the committee's satisfaction; and

WHEREAS, this bill amends section 16-12-223, MCA, to remove all existing doubt whether the Legislature intended to allow a qualifying marijuana cultivator licensee to increase production tiers at their discretion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-11-222, MCA, is amended to read:

"**5-11-222. Reports to legislature.** (1) (a) Except as provided in ~~subsection~~ subsections (1)(b) and (6), a report to the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or before September 1 of each year preceding the convening of a regular session of the legislature.

(b) If otherwise specified in law, a report may be required more or less frequently than the biennial requirement in subsection (1)(a).

(2) Reports to the legislature include:

(a) annual reports on the unified investment program for public funds and public retirement systems and state compensation insurance fund assets audits from the board of investments in accordance with Article VIII, section 13, of the Montana constitution;

(b) federal mandates requirements from the governor in accordance with 2-1-407;

(c) activities of the state records committee in accordance with 2-6-1108;

(d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

(e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-410;

(f) progress on gender and racial balance from the governor in accordance with 2-15-108;

(g) a mental health report from the ombudsman in accordance with 2-15-210;

(h) policies related to children and families from the interagency coordinating council for state prevention in accordance with 2-15-225;

(i) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

(j) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board in accordance with 2-15-3113;

(k) the allocation of space report from the department of administration required in accordance with 2-17-101;

(l) information technology activities in accordance with 2-17-512;

(m) state strategic information technology plan exceptions, if granted, from the department of administration in accordance with 2-17-515;

(n) the state strategic information technology plan and biennial report from the department of administration in accordance with 2-17-521 and 2-17-522;

(o) reports from standing, interim, and administrative committees, if prepared, in accordance with 2-17-825 and 5-5-216;

(p) statistical and other data related to business transacted by the courts from the court administrator, if requested, in accordance with 3-1-702;

(q) the judicial standards commission report in accordance with 3-1-1126;

(r) an annual report on the actual cost of legislation that had a projected fiscal impact from the office of budget and program planning in accordance with 5-4-208;

(s) a link to annual state agency reports on grants awarded in the previous fiscal year established by the legislative finance committee in accordance with 5-12-208;

(t) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in accordance with 5-12-302(4);

(u) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may impair the independence of the legislative audit division in accordance with 5-13-305;

(v) if a waste of state resources occurs, a report from the legislative state auditor, in accordance with 5-13-311;

(w) school funding commission reports each fifth interim in accordance with 5-20-301;

(x) a report of political committee operations conducted on state-owned property, if required, from a political committee to the legislative services division in accordance with 13-37-404;

(y) a report concerning taxable value from the department of revenue in accordance with 15-1-205;

(z) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;

(aa) semiannual reports on the Montana heritage preservation and development account from the Montana heritage preservation and development commission in accordance with 15-65-121;

(bb) general marijuana regulation reports and medical marijuana registry reports from the department of revenue in accordance with 16-12-110;

~~(cc) medical marijuana registry reports from the department of revenue in accordance with 16-12-532(3);~~

~~(dd)~~(cc) annual reports on general fund and nongeneral fund encumbrances from the department of administration in accordance with 17-1-102;

~~(ee)~~(dd) loans or loan extensions authorized for two consecutive fiscal years from the department of administration and office of commissioner of higher education, including negative cash balances from the commissioner of higher education, in accordance with 17-2-107;

~~(ff)~~(ee) a report of local government entities that have balances contrary to limitations provided for in 17-2-302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;

~~(gg)~~(ff) an annual report from the board of investments in accordance with 17-5-1650(2);

~~(hh)~~(gg) a report on retirement system trust investments and benefits from the board of investments in accordance with 17-6-230;

~~(ii)~~(hh) recommendations for reductions in spending and related analysis, if required, from the office of budget and program planning in accordance with 17-7-140;

~~(jj)~~(ii) a statewide facility inventory and condition assessment from the department of administration in accordance with 17-7-202;

~~(kk)~~(jj) actuary reports and investigations for public retirement systems from the public employees' retirement board in accordance with 19-2-405;

~~(ll)~~(kk) a work report from the public employees' retirement board in accordance with 19-2-407;

~~(mm)~~(ll) annual actuarial reports and evaluations from the teachers' retirement board in accordance with 19-20-201;

~~(nn)~~(mm) reports from the state director of K-12 career and vocational and technical education, as requested, in accordance with 20-7-308;

~~(oo)~~(nn) 5-year state plan for career and technical education reports from the board of regents in accordance with 20-7-330;

~~(pp)~~(oo) a gifted and talented students report from the office of public instruction in accordance with 20-7-904;

~~(qq)~~(pp) status changes for at-risk students from the office of public instruction in accordance with 20-9-328;

~~(rr)~~(qq) status changes for American Indian students from the office of public instruction in accordance with 20-9-330;

~~(ss)~~(rr) reports regarding the Montana Indian language preservation program from the office of public instruction in accordance with 20-9-537;

~~(tt)~~(ss) proposals for funding community colleges from the board of regents in accordance with 20-15-309;

~~(uu)~~(tt) expenditures and activities of the Montana agricultural experiment station and extension service, as requested, in accordance with 20-25-236;

~~(vv)~~(uu) reports, if requested by the legislature, from the president of each of the units of the higher education system in accordance with 20-25-305;

~~(ww)~~(vv) reports, if prepared by a public postsecondary institution, regarding free expression activities on campus in accordance with 20-25-1506;

~~(xx)~~(ww) reports from the Montana historical society trustees in accordance with 22-3-107;

~~(yy)~~(xx) state lottery reports in accordance with 23-7-202;

~~(zz)~~(yy) a report from the division of banking and financial institutions, if required, from the department of administration in accordance with 32-11-306;

~~(aaa)~~(zz) state fund reports, if required, from the commissioner in accordance with 33-1-115;

~~(bbb)~~(aaa) reports from the department of labor and industry in accordance with 39-6-101;

~~(ccc)~~(bbb) victim unemployment benefits reports from the department of labor and industry in accordance with 39-51-2111;

~~(ddd)~~(ccc) state fund business reports in accordance with 39-71-2363;

~~(eee)~~(ddd) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;

~~(fff)~~(eee) child custody reports from the office of the court administrator in accordance with 41-3-1004;

~~(ggg)~~(fff) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the governor in accordance with 46-23-316;

~~(hhh)~~(ggg) annual statewide public defender reports from the office of state public defender in accordance with 47-1-125;

~~(iii)~~(hhh) a trauma care system report from the department of public health and human services in accordance with 50-6-402;

~~(jjj)~~(iii) an older Montanans trust fund report from the department of public health and human services in accordance with 52-3-115;

~~(kkk)~~(jjj) Montana criminal justice oversight council reports in accordance with 53-1-216;

~~(lll)~~(kkk) medicaid block grant reports from the department of public health and human services in accordance with 53-1-611;

~~(mmm)~~(lll) reports on the approval and implementation status of medicaid section 1115 waivers in accordance with 53-2-215;

~~(nnn)~~(mmm) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

~~(ooo)~~(nnn) medicaid funding reports from the department of public health and human services in accordance with 53-6-110;

~~(ppp)~~(ooo) proposals regarding managed care for medicaid recipients, if required, from the department of public health and human services in accordance with 53-6-116;

~~(qqq)~~(ppp) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

~~(rrr)~~(qqq) a compliance and inspection report from the department of corrections in accordance with 53-30-604;

~~(sss)~~(rrr) emergency medical services grants from the department of transportation in accordance with 61-2-109;

~~(ttt)~~(sss) annual financial reports on the environmental contingency account from the department of environmental quality in accordance with 75-1-1101;

~~(uuu)~~(ttt) the Flathead basin commission report in accordance with 75-7-304;

~~(vvv)~~(uuu) a report from the land board, if prepared, in accordance with 76-12-109;

~~(www)~~(vvv) an annual state trust land report from the land board in accordance with 77-1-223;

~~(xxx)~~(www) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-713;

~~(yyy)~~(xxx) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

~~(zzz)~~(yyy) reports on the allocation of renewable resources grants and loans for emergencies, if required, from the department of natural resources and conservation in accordance with 85-1-605;

~~(aaaa)~~(zzz) water storage projects from the governor's office in accordance with 85-1-704;

~~(bbbb)~~(aaaa) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-338;

~~(cccc)~~(bbbb) upland game bird enhancement program reports in accordance with 87-1-250;

~~(dddd)~~(cccc) private land/public wildlife advisory committee reports in accordance with 87-1-269;

~~(eeee)~~(dddd) a future fisheries improvement program report from the department of fish, wildlife, and parks in accordance with 87-1-272;

~~(ffff)~~(eeee) license revenue recommendations from the department of fish, wildlife, and parks in accordance with 87-1-629;

~~(gggg)~~(ffff) land information data reports from the state library in accordance with 90-1-404;

~~(hhhh)~~(gggg) hydrocarbon and geology investigation reports from the bureau of mines and geology in accordance with 90-2-201;

~~(iiii)~~(hhhh) coal ash markets investigation reports from the department of commerce in

accordance with 90-2-202;

~~(jjjj)~~(iiii) an annual report from the pacific northwest electric power and conservation planning council in accordance with 90-4-403;

~~(kkkk)~~(jjjj) community property-assessed capital enhancements program reports from the Montana facility finance authority in accordance with 90-4-1303;

~~(llll)~~(kkkk) veterans' home loan mortgage loan reports from the board of housing in accordance with 90-6-604;

~~(mmmm)~~(llll) matching infrastructure planning grant awards by the department of commerce in accordance with 90-6-703(3); and

~~(nnnn)~~(mmmm) treasure state endowment program reports from the department of commerce in accordance with 90-6-710;

(3) Reports to the legislature include reports made to an interim committee as follows:

(a) reports to the law and justice interim committee, including:

(i) findings of the domestic violence fatality review commission in accordance with 2-15-2017;

(ii) the report from the missing indigenous persons review commission in accordance with 2-15-2018;

(iii) reports from the department of justice and public safety officer standards and training council in accordance with 2-15-2029;

(iv) information on the Montana False Claims Act from the department of justice in accordance with 17-8-416;

(v) annual case status reports from the attorney general in accordance with 41-3-210;

(vi) office of court administrator reports in accordance with 41-5-2003;

(vii) statewide public safety communications system activities from the department of justice in accordance with 44-4-1606;

(viii) reports on the status of the crisis intervention team training program from the board of crime control in accordance with 44-7-110;

(ix) restorative justice grant program status and performance from the board of crime control in accordance with 44-7-302;

(x) reports on offenders under supervision with new offenses or violations from the department of corrections in accordance with 46-23-1016;

(xi) supervision responses grid reports from the department of corrections in accordance with 46-23-1028;

(xii) statewide public defender reports and information from the office of state public defender in accordance with 47-1-125;

(xiii) every 5 years, a percentage change in public defender funding report from the legislative fiscal analyst in accordance with 47-1-125;

(xiv) every 5 years, statewide public defender reports on the percentage change in funding from the office of state public defender in accordance with 47-1-125; and

(xv) a report from the quality assurance unit from the department of corrections in accordance with 53-1-211;

(b) reports to the state administration and veterans' affairs interim committee, including:

(i) a report that includes information technology activities and additional information from the information technology board in accordance with 2-17-512 and 2-17-513;

(ii) a report from the capitol complex advisory council in accordance with 2-17-804;

(iii) a report on the employee incentive award program from the department of administration in accordance with 2-18-1103;

(iv) a board of veterans' affairs report in accordance with 10-2-102;

(v) a report on grants to the Montana civil air patrol from the department of military affairs in accordance with 10-3-802;

(vi) annual reports on statewide election security from the secretary of state in accordance with 13-1-205;

(vii) a report regarding the youth voting program, if requested, from the secretary of state in accordance with 13-22-108;

(viii) a report from the commissioner of political practices in accordance with 13-37-120;

(ix) a report on retirement system trust investments from the board of investments in accordance with 17-6-230;

(x) actuarial valuations and other reports from the public employees' retirement board in accordance with 19-2-405 and 19-3-117;

(xi) actuarial valuations and other reports from the teachers' retirement board in accordance with 19-20-201 and 19-20-216;

(xii) a report on the reemployment of retired members of the teachers' retirement system from the teachers' retirement board in accordance with 19-20-732; and

(xiii) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the secretary of state in accordance with 30-9A-527;

(c) reports to the children, families, health, and human services interim committee, including:

(i) performance data from the department of public health and human services in accordance with 2-15-2225;

(ii) quarterly reports on data requirements from the department of public health and human services in accordance with 5-12-303;

(iii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(iv) Montana HELP Act workforce development reports from the department of public health and human services in accordance with 39-12-103;

(v) annual reports from the child and family ombudsman in accordance with 41-3-1211;

(vi) reports on activities and recommendations on child protective services activities, if required, from the child and family ombudsman in accordance with 41-3-1215;

(vii) reports on the out-of-state placement of high-risk children with multiagency service needs from the department of public health and human services in accordance with 52-2-311;

(viii) private alternative adolescent residential and outdoor programs reports from the department of public health and human services in accordance with 52-2-803;

(ix) an annual Montana parents as scholars program report from the department of public health and human services in accordance with 53-4-209;

(x) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(xi) a report concerning mental health managed care services, if managed care is in place, from the

advisory council in accordance with 53-6-710;

(xii) quarterly medicaid reports related to expansion from the department of public health and human services in accordance with 53-6-1325;

(xiii) annual Montana developmental center reports from the department of public health and human services in accordance with 53-20-225; and

(xiv) annual children's mental health outcomes from the department of public health and human services in accordance with 53-21-508;

(xv) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(d) reports to the economic affairs interim committee, including:

(i) the annual state compensation insurance fund budget from the board of directors in accordance with 5-5-223 and 39-71-2363;

(ii) general marijuana regulation reports from the department of revenue in accordance with 16-12-110(3);

(iii) medical marijuana registry reports from the department of revenue in accordance with ~~16-12-532(3)~~ 16-12-110;

(iv) annual reports on complaints against physicians certifying medical marijuana use from the board of medical examiners in accordance with ~~16-12-532(4)~~ 16-12-110(6);

(v) an annual report on the administrative rate required from the department of commerce from the Montana heritage preservation and development commission in accordance with 22-3-1002;

(vi) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;

(vii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-71-2375;

(viii) annual reinsurance reports from the Montana reinsurance association board required in accordance with 33-22-1308;

(ix) reports from the department of labor and industry concerning board attendance in accordance with 37-1-107;

(x) annual reports on physician complaints related to medical marijuana from the board of medical

examiners in accordance with 37-3-203;

(xi) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(xii) status reports on the special revenue account and fees charged as a funding source from the board of funeral service in accordance with 37-19-204;

(xiii) unemployment insurance program integrity act reports from the department of labor and industry in accordance with 39-15-706;

(xiv) status reports on the distressed wood products industry revolving loan program from the department of commerce in accordance with 90-1-503;

(e) reports to the education interim committee, including:

(i) reemployment of retired teachers, specialists, and administrators reports from the retirement board in accordance with 19-20-732;

(ii) a report on participation in the interstate compact on educational opportunity for military children in accordance with 20-1-231;

(iii) grow your own grant program reports from the commissioner of higher education in accordance with 20-4-601;

(iv) standards of accreditation proposals and economic impact statements from the board of public education in accordance with 20-7-101;

(v) advanced opportunity program reports from the board of public education in accordance with 20-7-1506;

(vi) progress on transformational learning plans from the board of public education in accordance with 20-7-1602;

(vii) budget amendments, if needed, from school districts in accordance with 20-9-161;

(viii) annual Montana resident student financial aid program reports from the commissioner of higher education in accordance with 20-26-105;

(ix) a historic preservation office report from the historic preservation officer in accordance with 22-3-423; and

(x) interdisciplinary child information agreement reports from the office of public instruction in accordance with 52-2-211;

(f) reports to the energy and telecommunications interim committee, including:

(i) the high-performance building report from the department of administration in accordance with 17-7-214;

(ii) an annual report from the consumer counsel in accordance with 69-1-222;

(iii) annual universal system benefits reports from utilities, electric cooperatives, and the department of revenue in accordance with 69-8-402;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501; and

(v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-1301;

(g) reports to the revenue interim committee, including:

(i) use of the qualified endowment tax credit report from the department of revenue in accordance with 15-1-230;

(ii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with 15-7-111;

(iii) gray water property tax abatement usage reports from the department of revenue in accordance with 15-24-3211;

(iv) information about job growth incentive tax credits from the department of revenue in accordance with 15-30-2361;

(v) student scholarship contributions from the department of revenue in accordance with 15-30-3112;

(vi) tax havens from the department of revenue in accordance with 15-31-322;

(vii) media production tax credit economic impact reports from the department of commerce in accordance with 15-31-1011; and

~~(viii) medical marijuana registry reports from the department of revenue in accordance with 16-12-532 (5);~~

~~(ix) complaints against physicians certifying use of medical marijuana from the board of medical examiners in accordance with 16-12-532 (5); and~~

~~(x)~~(viii) reports that actual or projected receipts will result in less revenue than estimated from the office of budget and program planning, if necessary, in accordance with 17-7-140;

(h) reports to the transportation interim committee, including:

(i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;

(ii) cooperative agreement negotiations from the department of transportation in accordance with 15-70-450;

(iii) an annual alternative project delivery contracting report from the department of transportation in accordance with 60-2-119; and

(iv) a special fuels inspection report from the department of transportation in accordance with 61-10-154;

(i) reports to the environmental quality council, including:

(i) compliance and enforcement reports required in accordance with 75-1-314;

(ii) the state solid waste management and resource recovery plan, every 5 years, from the department of environmental quality in accordance with 75-10-111;

(iii) annual orphan share reports from the department of environmental quality in accordance with 75-10-743;

(iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;

(v) annual subdivision sanitation reports from the department of environmental quality in accordance with 76-4-116;

(vi) state trust land accessibility reports from the department of natural resources and conservation in accordance with 77-1-820;

(vii) biennial land banking reports and annual state land cabin and home site sales reports from the department of natural resources and conservation in accordance with 77-2-366;

(viii) biennially invasive species reports from the departments of fish, wildlife, and parks and natural resources and conservation in accordance with 80-7-1006;

(ix) annual upper Columbia conservation commission reports in accordance with 80-7-1026;

(x) annual invasive species council reports in accordance with 80-7-1203;

(xi) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;

(xii) annual sage grouse population reports from the department of fish, wildlife, and parks in accordance with 87-1-201;

(xiii) annual gray wolf management reports from the department of fish, wildlife, and parks in accordance with 87-1-901;

(xiv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in accordance with 87-2-702;

(xv) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in accordance with 87-5-807; and

(xvi) annual sage grouse oversight team activities and staffing reports in accordance with 87-5-918;

(j) reports to the water policy interim committee, including:

(i) drought and water supply advisory committee reports in accordance with 2-15-3308;

(ii) total maximum daily load reports from the department of environmental quality in accordance with 75-5-703;

(iii) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501;

(v) renewable resource grant and loan program reports from the department of natural resources and conservation in accordance with 85-1-621;

(vi) quarterly adjudication reports from the department of natural resources and conservation and the water court in accordance with 85-2-281;

(vii) water reservation reports from the department of natural resources and conservation in accordance with 85-2-316;

(viii) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-436; and

(ix) ground water investigation program reports from the bureau of mines and geology in accordance with 85-2-525;

(k) reports to the local government interim committee, including:

(i) sand and gravel, if an investigation is completed, in accordance with 82-2-701;

(ii) assistance to local governments on federal land management proposals from the department of commerce in accordance with 90-1-182; and

(iii) emergency financial assistance to local government reports from the department of commerce, if requests are made, in accordance with 90-6-703(2);

(l) reports to the state-tribal relations committee, including:

(i) reports from the missing indigenous persons review commission in accordance with 2-15-2018;

(ii) the Montana Indian language preservation program report from the state-tribal economic development commission in accordance with 20-9-537;

(iii) reports from the missing indigenous persons task force in accordance with 44-2-411

(iv) a decennial economic contributions and impacts of Indian reservations report from the department of commerce in accordance with 90-1-105;

(v) state-tribal economic development commission activities reports from the state-tribal economic development commission in accordance with 90-1-132; and

(vi) state-tribal economic development commission reports provided regularly by the state director of Indian affairs in accordance with 90-11-102.

(4) (a) Except as provided in subsections (4)(b) and (6) and unless otherwise required by law, a report made to the legislature in accordance with subsection (3) may be provided orally before September 1 of each year preceding the convening of a regular session of the legislature and in accordance with 5-11-210(1)(b).

(b) After receiving an oral report, an interim or administrative committee responsible for receiving the report may request a written report be filed with the legislature in accordance with 5-11-210(1)(a).

(c) This section may not be interpreted to preclude an interim or administrative committee from requesting additional information.

(5) Reports to the legislature include multistate compact and agreement reports including:

(a) multistate tax compact reports in accordance with 15-1-601;

(b) interstate compact on educational opportunity for military children reports in accordance with 20-1-230 and 20-1-231;

(c) compact for education reports in accordance with 20-2-501;

(d) Western regional higher education compact reports in accordance with 20-25-801;

(e) interstate insurance product regulation compact reports in accordance with 33-39-101;

(f) interstate medical licensure compact reports in accordance with 37-3-356;

(g) interstate compact on juveniles reports in accordance with 41-6-101;

(h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

(i) vehicle equipment safety compact reports in accordance with 61-2-201;

(j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

(k) western interstate nuclear compact reports in accordance with 90-5-201.

(6) Reports, transfers, statements, assessments, recommendations and changes required under 17-7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 20-7-101, 23-7-202, 33-1-115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports required in subsections (2)(a), ~~(2)(gg)~~ (2)(ff), ~~(2)(hh)~~ (2)(gg), and (3)(b)(ix) must be provided following issuance of reports issued under Title 5, chapter 13."

Section 2. Section 15-64-101, MCA, is amended to read:

"**15-64-101. Definitions.** As used in this part, the following definitions apply:

(1) "Adult-use dispensary" has the meaning provided in 16-12-102.

(2) "Customer" means a person to whom a sale of marijuana or a marijuana product is made.

~~(2)~~(3) "Department" means the department of revenue provided for in 2-15-1301.

~~(3)~~(4) "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.

~~(4)~~(5) "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana dispensary.

~~(5)~~(6) "Marijuana" has the meaning provided in 16-12-102.

~~(6)~~(7) "Marijuana product" has the meaning provided in 16-12-102.

~~(7)~~(8) "Medical marijuana dispensary" has the meaning provided in 16-12-102.

~~(8)~~(9) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.

~~(9) "Purchaser" means a person to whom a sale of marijuana or a marijuana product is made.~~

(10) "Retail price" means the established price for which an adult-use dispensary or medical marijuana dispensary sells marijuana or a marijuana product to a purchaser before any discount or reduction.

(11) "Sale" or "sell" means any transfer of marijuana or marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means."

Section 3. Section 16-12-102, MCA, is amended to read:

"**16-12-102. Definitions.** As used in this chapter, the following definitions apply:

(1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may:

(a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and

(b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.

(3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

(4) "Canopy" means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.

(6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

(7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

(a) is a natural person, an entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, or a

publicly traded corporation, and:

(i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;

(ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or

(iii) is otherwise in a position to control the marijuana business; or

(b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.

(8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction.

(9) "Cultivator" means a person licensed by the department to:

(a) plant, cultivate, grow, harvest, and dry marijuana; and

(b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(10) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder.

(11) "Department" means the department of revenue provided for in 2-15-1301.

(12) (a) "Employee" means an individual employed to do something for the benefit of an employer.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net profits or net worth of the entity in which the interest is held.

(b) The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance but does include holders of private loans or convertible securities.

(14) "Former medical marijuana licensee" means a person that was licensed by or had an application for licensure pending with the department of public health and human services to provide marijuana to individuals with debilitating medical conditions on ~~November 3, 2020~~ November 3, 2020.

(15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight.

(b) The term may include:

(i) a greenhouse;

(ii) a hoop house; or

(iii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

(16) "Licensed premises" means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

(17) "Licensee" means a person holding a state license issued pursuant to this chapter.

(18) "Local government" means a county, a consolidated government, or an incorporated city or town.

(19) "Manufacturer" means a person licensed by the department to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or

relabel marijuana products as allowed under this chapter.

(20) (a) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(b) The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(c) The term does not include a drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department under this chapter.

(22) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products.

(24) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer ~~by a means other than smoking~~. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates<u>, including concentrates intended for use by smoking or vaping</u>.

(25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

(26) "Mature marijuana plant" means a harvestable marijuana plant.

(27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a

cardholder who is registered under Title 16, chapter 12, part 5.

(28) "Medical marijuana dispensary" means the location from which a registered cardholder may obtain marijuana or marijuana products.

(29) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.

(30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

(31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

(32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana business that is not otherwise a controlling beneficial owner or in control.

(33) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(34) "Qualified institutional investor" means:

(a) a bank or banking institution including any bank, trust company, member bank of the federal reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and doing business under the laws of this state, any other state, or the laws of the United States;

(b) a bank holding company as defined in 32-1-109;

(c) a company organized as an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to regulation or oversight by the insurance department of the office of the state auditor or a similar agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their capacity as such an insurance company;

(d) an investment company registered under section 8 of the federal Investment Company Act of 1940, as amended;

(e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an

intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

(f) a state or federal government pension plan; or

(g) any other entity identified by rule by the department.

(35) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(36) "Registry identification card" means a document issued by the department pursuant to 16-12-503 that identifies an individual as a registered cardholder.

(37) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this chapter if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(38) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(39) "State laboratory" means the laboratory operated by the department of public health and human services to conduct environmental analyses.~~

~~(40)~~(39) "Testing laboratory" means a qualified person, licensed under this chapter that:

(a) provides testing of representative samples of marijuana and marijuana products; and

(b) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

~~(41)~~(40) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual.

(b) The term does not include the seeds, stalks, and roots of the plant. (Subsection (15)(b)(ii) terminates October 1, 2023--sec. 117(1), Ch. 576, L. 2021.)"

Section 4. Section 16-12-104, MCA, is amended to read:

"**16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

(2) (a) The department shall issue the following license types to persons who submit applications

meeting the requirements of this chapter:

(i) cultivator license;

(ii) manufacturer license;

(iii) adult-use dispensary license or a medical marijuana dispensary license;

(iv) testing laboratory license.

(v) marijuana transporter license.

(vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

(3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

(4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

(5) The department shall assess applications for licensure or renewal to determine if an applicant, controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria established in this chapter for denial of a license.

(6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in rule by the department.

(7) (a) The department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

(i) within 60 days of receiving the application or renewal and all related application materials from a former medical marijuana licensee or an existing licensee under this chapter; and

(ii) within 120 days of receiving the application and all related application materials from a new applicant.

(b) If the department fails to act on a completed application within the time allowed under subsection (7)(a), the department shall:

(i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(ii) allow a licensee to continue operation until the department takes final action.

(c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.

(d) The department shall issue a license or endorsement within 5 days of approving an application or renewal.

(8) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) Licenses issued under this chapter must be renewed annually.

(10) (a) The department shall provide the names and phone numbers of persons, including the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (10)(b), the department may not disclose the physical location or address of a marijuana business.

(b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal.

(c) The name of a controlling beneficial owner is not considered confidential information as defined in 2-6-1002.

(11) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee operating in compliance with the requirements of this chapter from operating at a shared location with a medical marijuana dispensary.

(12) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than government-issued identification to determine the consumer's age. A licensee that scans a person's driver's license using an electronic reader to determine the person's age:

(a) may only use data or metadata from the scan determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department.

(13) (a) Except as provided in subsection (13)(b), licenses issued by the department under this chapter are nontransferable.

(b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business.

(14) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner unless the licensee notifies, in writing, the department of the proposed transaction and the department determines that the person qualifies for ownership under the provisions of this chapter."

Section 5. Section 16-12-106, MCA, is amended to read:

"**16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government for a person who is 21 years of age or older or a registered cardholder:

(a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age

or older or a registered cardholder, 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(c) in or on the grounds of a private residence, possessing, planting, or cultivating up to two mature marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered cardholder, and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:

(i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place;

(ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be cultivated in or on the grounds of a single private residence simultaneously;

(iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and

(iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana products for personal use may be shared with, rented, or leased to a marijuana business;

(d) assisting another person who is at least 21 years of age or a registered cardholder, in any of the acts permitted by this section, including allowing another person to use one's personal residence for any of the acts described in this section; and

(e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia relating to marijuana.

(2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for that activity by the department, is subject to a civil fine not exceeding $50.

(5) For a person who is under 21 years of age and is not a registered cardholder, possession, use, delivery without consideration, or distribution without consideration of marijuana is punishable in accordance with 45-5-624.

(6) For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and 8 hours of drug education or counseling.

(7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

(a) for a first violation, the person's choice between a civil fine not exceeding $200 or completing up to 4 hours of community service in lieu of the fine;

(b) for a second violation, the person's choice between a civil fine not exceeding $300 or completing up to 6 hours of community service in lieu of the fine; and

(c) for a third or subsequent violation, the person's choice between a civil fine not exceeding $500 or completing up to 8 hours of community service in lieu of the fine.

(8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this chapter.

(9) A person may not be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by this chapter."

Section 6. Section 16-12-108, MCA, is amended to read:

"**16-12-108. Limitations of act.** (1) This chapter does not permit:

(a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana products;

(b) consumption of marijuana or marijuana products while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(c) smoking or consuming marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(d) delivery or distribution of marijuana or marijuana products, with or without consideration, to a person under 21 years of age, unless the person is a registered cardholder;

(e) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of age, unless the person is a registered cardholder;

(f) possession or transport of marijuana or marijuana products by a person under 21 years of age unless the underage person is a registered cardholder or is at least 18 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work activities;

(g) possession or consumption of marijuana or marijuana products or possession of marijuana paraphernalia:

(i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in 20-5-402;

(ii) in a school bus ~~or other form of public transportation~~;

(iii) in a health care facility as defined in 50-5-101; or

(iv) on the grounds of any correctional facility; ~~or~~

~~(v) in a hotel or motel room;~~

(h) using marijuana or marijuana products in a location where smoking tobacco is prohibited;

(i) smoking marijuana in a hotel or motel room, except for a hotel or motel room that is designated as a smoking room and rented to a guest;

~~(i)~~(j) consumption of marijuana or marijuana products:

(i) in a public place, except as allowed by the department; or

(ii) on trains, buses, or other forms of public transportation.

~~(j)~~(k) conduct that endangers others;

~~(k)~~(l) undertaking any task while under the influence of marijuana or marijuana products if doing so would constitute negligence or professional malpractice; or

~~(l)~~(m) performing solvent-based extractions on marijuana using solvents other than water, glycerin,

propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

(2) (a) A violation of subsections (1)(g)(i) through (1)(g)(iii) and (1)(h) through (1)(j) is subject to the penalties provided for in 50-40-115.

(b) In addition to the penalties provided for in 50-40-115, a person in violation of subsection (1)(g)(iv) may be subject to administrative action by the department of corrections and the department of justice, and a violation of subsection (1)(g)(iv) may be subject to the penalties provided for in 45-7-307.

(c) A violation of subsection (1)(m) is subject to the penalties provided for in 45-9-110(3).

~~(2)~~(3) A person may not cultivate marijuana in a manner that is visible from the street or other public area.

~~(3)~~(4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

~~(4)~~(5) Nothing in this chapter may be construed to:

(a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;

(b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana or marijuana products;

(c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or marijuana products while working;

(d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(e) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

~~(5)~~(6) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages, except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully

possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding.

~~(6)~~(7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the department under Title 15 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

~~(7)~~(8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the conduct of consumers, licensees, and registered cardholders."

Section 7. Section 16-12-109, MCA, is amended to read:

"**16-12-109. Unlawful conduct by licensees -- penalties.** (1) If the department has reasonable cause to believe that a licensee has violated a provision of this chapter or a rule of the department, it may, in its discretion and in addition to any other penalties prescribed:

(a) reprimand a licensee;

(b) revoke the license of the licensee;

(c) suspend the license for a period of ~~not more than 3 months~~ up to 1 year;

(d) refuse to grant a renewal of the license after its expiration; or

(e) impose a civil penalty not to exceed $3,000.

(2) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

(a) compliance with the provisions of this chapter within the prior 3 years;

(b) the licensee has made good faith efforts to prevent a violation; or

(c) the licensee has cooperated in the investigation of the violation and the licensee or an employee or agent of the licensee accepts responsibility.

(3) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

(a) prior warnings about compliance problems;

(b) prior violations of the provisions of this chapter within the past 3 years;

(c) lack of written policies governing employee conduct;

(d) additional violations revealed during the course of the investigation;

(e) efforts to conceal a violation;

(f) intentional violations; or

(g) involvement of more than one patron or employee in a violation.

(4) For each licensing program regulated by the department under this chapter, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

(5) The department shall revoke and may not reissue a license or endorsement belonging to a person:

(a) whose controlling beneficial owner is an individual convicted of a felony drug offense;

(b) who allows another person not authorized or lawfully allowed to be in possession of the license;

(c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by federal law;

(d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing license;

(e) who purchases marijuana from an unauthorized source in violation of this chapter; or

(f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows or should know is under 21 years of age, unless the person is a registered cardholder.

(6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.

(7) (a) Review of a department action imposing a fine, suspension, or revocation under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection,

suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision."

Section 8. Section 16-12-110, MCA, is amended to read:

"**16-12-110. Legislative monitoring.** (1) The economic affairs interim committee shall provide oversight of ~~the department's~~ activities pursuant to this chapter, including but not limited to monitoring of:

(a) the number of licensees;

(b) (i) the total square footage of canopy licensed in the state; and

(ii) the percentage of total canopy in production;

~~(b)~~(c) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; ~~and~~

~~(c)~~(d) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 16-12-105;

(e) the number of registered cardholders;

(f) the number and type of violations committed by registered cardholders, together with the penalties imposed on registered cardholders by the department; and

(g) laboratory testing procedures performed by the department in accordance with this chapter.

(2) The economic affairs interim committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-12-203 and 16-12-503. The report must include:

(i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;

(ii) the number and type of violations committed by licensees;

(iii) the number of licenses revoked; ~~and~~

(iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter;

(v) the number of applications for registry identification cards and the number of registered cardholders approved;

(vi) the nature of the debilitating medical conditions of the registered cardholders;

(vii) the number of registry identification cards revoked; and

(viii) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.

(b) The report may not provide ~~any identifying information of cultivators, manufacturers, and dispensaries except basic geographic or other statistical information~~ any identifying information of registered cardholders or physicians.

(4) The report on inspections required under 16-12-210 must include, at a minimum, the following information for both announced and unannounced inspections:

(a) the number of inspections conducted, by canopy licensure tier;

(b) the number of licensees that were inspected more than once during the year;

(c) the number of inspections that were conducted because of complaints made to the department; and

(d) the types of enforcement actions taken as a result of the inspections.

(5) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(6) Pursuant to 37-3-203, the board of medical examiners shall report annually in accordance with 5-11-210 to the economic affairs interim committee on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana."

Section 9. Section 16-12-125, MCA, is amended to read:

"**16-12-125. Hotline.** (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of this chapter.

(2) An individual making a complaint must be a resident and shall provide the individual's name,

street address, and phone number.

(3) ~~(a)~~ The department shall provide a copy of the complaint to the person or licensee that is the subject of the complaint.

~~(b) The department may not redact the individual's name or city of residence from the complaint copy.~~

(4) The department may:

(a) investigate reports of suspected abuse of the provisions of this chapter; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring."

Section 10. Section 16-12-129, MCA, is amended to read:

"**16-12-129. Department to conduct background checks.** (1) In addition to any other requirement imposed under this chapter, before issuing any license under this chapter the department shall conduct:

(a) a fingerprint-based background check meeting the requirements for a fingerprint-based background check by the department of justice and the federal bureau of investigation in association with an application for initial licensure and every 5 years thereafter; and

(b) a name-based background check in association with an application for initial licensure and each year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based background check.

(2) For the purpose of the background records check required under subsection (1), the department shall obtain fingerprints from each individual listed on an application submitted under this chapter and each individual who has a controlling beneficial ownership or financial interest in the license or prospective license, including:

(a) each partner of an applicant that is a limited partnership;

(b) each member of an applicant that is a limited liability company;

(c) each director and officer of an applicant that is a corporation;

(d) each individual who holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; ~~and~~

(e) each individual who is a partner, member, director, or officer of a legal entity that holds a 5%

financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; and

(f) a person designated by the applicant as responsible for operating the licensed establishment on behalf of the licensee.

~~(3) (a) Except as provided in subsection (3)(b), an employee of a marijuana business shall undergo a criminal background check prior to beginning employment.~~

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall undergo a criminal background check within 90 days of January 1, 2022.~~

~~(4)~~(3) The department may establish procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under this section."

Section 11. Section 16-12-201, MCA, is amended to read:

"**16-12-201. Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, the department may only accept applications from and issue licenses to former medical marijuana licensees that were licensed by or had an application pending with the department of public health and human services on ~~November 3, 2020~~ November 3, 2020, and are in good standing with the department and in compliance with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of January 1, 2022.

(b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after ~~July 1, 2023~~ July 1, 2025.

(2) (a) The department shall adopt rules to govern the operation of former medical marijuana licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate license under this chapter with a minimum of disruption to business operations.

(b) Beginning January 1, 2022, a former medical marijuana licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at the adult-use marijuana tax rate set forth in 15-64-102 under the licensee's existing license in a jurisdiction that allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana

licensee's next license renewal date, by which time the former medical licensee must have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is granted by the department.

(c) (i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2), "appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary license, and, if applicable, a manufacturer license.

(ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to registered cardholders is not required to obtain an adult-use dispensary license.

(3) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms may be prorated by the department."

Section 12. Section 16-12-202, MCA, is amended to read:

"**16-12-202. Testing laboratories -- licensing -- inspection ~~-- state laboratory responsibility~~.** (1) (a) A person who obtains a testing laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana as allowed by this chapter.

(b) A person who is a controlling beneficial owner of a testing laboratory or holds a financial interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing services are performed.

(2) (a) The ~~state laboratory~~ department shall endorse a testing laboratory to perform the testing required under 16-12-206 and 16-12-209 before a testing laboratory may apply for licensure or renewal with the department.

(b) (i) The ~~state laboratory~~ department shall inspect a testing laboratory before endorsing a testing laboratory for licensure or renewal and may not endorse a testing laboratory for licensure or renewal if the applicant does not meet the requirements of 16-12-206 and this section.

(ii) The ~~state laboratory~~ department may not issue a temporary license while an inspection is

pending.

(3) An inspection conducted for licensure or renewal of a license must include a review of an applicant's or testing laboratory's:

(a) physical premises where testing will be conducted;

(b) instrumentation;

(c) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

(d) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

(e) vehicles used for transporting marijuana or marijuana product samples for testing purposes.

(4) ~~Upon~~ On receiving an endorsement from the ~~state laboratory~~ department for licensure or annual renewal, a testing laboratory must apply for licensure or renewal with the department by submitting to the department:

(a) the information required by 16-12-203; and

(b) a fee that the department shall establish by rule.

(5) The ~~state laboratory~~ department shall:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products;

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants; and

(c) establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that consumers and registered cardholders receive consistent and uniform information about the potency and quality of the marijuana and marijuana products they receive. The ~~state laboratory~~ department shall:

(i) consult with independent national or international organizations that establish testing standards for marijuana and marijuana products;

(ii) require testing laboratories to follow uniform standards and protocols for the samples accepted for testing and the processes used for testing the samples; and

(iii) track and analyze the raw data for the results of testing conducted by testing laboratories to ensure that the testing laboratories are providing consistent and uniform results.

(6) The department may retain the services of the analytical laboratory provided by the department of agriculture pursuant to 80-1-104 for the testing contemplated in this section.

(7) If an analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the ~~state laboratory~~ department by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the ~~state laboratory~~ department may suspend the testing laboratory's license. A suspension must be based on rules adopted by the ~~state laboratory~~ department.

(9) The department shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent or misleading; or

(b) providing test results without having:

(i) the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or

(ii) the equipment required under this chapter to conduct the tests for which the laboratory is providing results.

(10) ~~A revocation under this section is subject to judicial review~~ (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for in this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (10)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision."

Section 13. Section 16-12-203, MCA, is amended to read:

"**16-12-203. Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory if the person submits to the department:

(i) the person's name, date of birth, and street address on a form prescribed by the department;

(ii) proof that the natural person having day-to-day operational control over the business is a Montana resident;

(iii) a statement, on a form prescribed by the department, that the person:

(A) will not divert to any other person the marijuana that the person cultivates or the marijuana products that the person manufactures for consumers or registered cardholders, unless the marijuana or marijuana products are sold to another licensee ~~as part of a sale of a business~~ as allowed under this section and by rules of the department; and

(B) has no pending citations for violations occurring under this chapter or the marijuana laws of any other state or jurisdiction;

(iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana products will be cultivated, manufactured, sold, or tested; and

(v) proof that the applicant has source of funding from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(A) is a person whose prior financial or other activities or criminal record:

(B) poses a threat to the public interest of the state;

(C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

(D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business.

(b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial ownership interest.

(c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the

department the following:

(i) a complete and accurate organizational chart of the marijuana business disclosing the identity and ownership percentages of its controlling beneficial owners;

(ii) whether the applicant has ever filed for bankruptcy;

(iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

(iv) any financial interests held by the applicant in another marijuana business in any state;

(v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

(viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana business; and

(ix) any financial interest holder that holds two or more financial interests in the marijuana business or that is contributing over 50% of the operating capital of the marijuana business.

(d) The department may request that the marijuana business disclose each beneficial owner and affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded corporation.

(e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(f) An applicant or marijuana business that is a publicly traded corporation shall affirm under

penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(g) This section does not restrict the department's ability to reasonably request information or records at renewal or as part of any other investigation following initial licensure of a marijuana business.

(h) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(2) The department may not license a person under this chapter if the person or an owner, including a person with a financial interest:

(a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under ~~16-12-524~~ 16-12-302 or of making a fraudulent representation under the former medical marijuana program administered by the department of public health and human services;

(d) is under 21 years of age;

(e) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;

(iii) stay out of default on a government-issued student loan;

(iv) pay child support; or

(v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;

(f) has had a license issued under this chapter or a former medical marijuana license revoked within 3 years of the date of the application; or

(g) has resided in Montana for less than 1 year.

(3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless federal law otherwise allows for the interstate distribution of marijuana.

(4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or adult-use dispensary shall:

(a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to this chapter and administrative rules;

(b) allow the department to collect samples of marijuana or marijuana products during inspections of licensed premises for testing as provided by the department by rule; and

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 16-12-105.

(5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana products for use by consumers or registered cardholders only at one of the following locations:

(i) a property that is owned by the licensee; or

(ii) with written permission of the property owner filed with the department when applying for or renewing a license, a property that is rented or leased by the licensee.

(b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products or marijuana concentrate may be shared with or rented or leased to another licensee.

(c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises.

(6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this chapter and rules adopted by the department:

(a) may operate adult-use dispensaries;

(b) may engage in manufacturing; and

(c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

(7) A cultivator or manufacturer:

(a) may contract or otherwise arrange for another party that is licensed to process a cultivator's or manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or manufacturer for sale; and

(b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the required license and before the department has completed the inspection required under this chapter unless permitted to do so pursuant to 16-12-207."

Section 14. Section 16-12-206, MCA, is amended to read:

"**16-12-206. Testing laboratories -- licensing inspections.** (1) A testing laboratory may:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products; and

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested.

(2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. A scientific director must have the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

(3) All owners and employees of a testing laboratory shall submit fingerprints to the department to facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.

(4) To qualify for licensure, a testing laboratory shall demonstrate that:

(a) staff members are proficient in operation of the laboratory equipment; and

(b) the laboratory:

(i) maintains the equipment and instrumentation required by rule;

(ii) has all equipment and instrumentation necessary to certify results that meet the quality

assurance testing requirements established by rule, including the ability to certify results at the required level of sensitivity;

(iii) meets insurance and bonding requirements established by rule;

(iv) has the capacity and ability to serve rural areas of the state; and

(v) has passed a proficiency program approved by the ~~state laboratory~~ department that demonstrates it is able to meet all testing requirements.

(5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of:

(a) samples of marijuana and marijuana products submitted by cultivators and manufacturers pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;

(b) samples of marijuana or marijuana products collected by the department during inspections of licensed premises; and

(c) samples submitted by consumers or registered cardholders."

Section 15. Section 16-12-207, MCA, is amended to read:

"**16-12-207. Licensing as privilege -- criteria.** (1) A cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, combined-use marijuana license, marijuana transporter license, or any other license authorized under this chapter is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed licensed premises, including but not limited to cultivation centers, dispensaries, and manufacturing facilities.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary license, ~~or~~ medical marijuana license, or testing laboratory license if the applicant's proposed licensed premises:

(i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts

with an ordinance, a certified copy of which has been filed with the department;

(ii) is not approved by local building, health, or fire officials as provided for in this chapter; or

(iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school, unless the locality requires a greater distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was established before the church, synagogue, or other place of worship or school or postsecondary school existed on the same street.

(b) For the purposes of this subsection (3), "school" and "postsecondary school" have the meanings provided in 20-5-402.

(4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder in a vehicle that is parked immediately outside the subject dispensary.

(5) A marijuana business may not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises.

(6) A marijuana business may not utilize the United States postal service or an alternative carrier other than a licensed marijuana transporter to transport, distribute, ship, or otherwise deliver marijuana or marijuana products.

(7) A marijuana business may not provide free marijuana or marijuana products or offer samples of marijuana or marijuana products.

(8) Marijuana or a marijuana product may not be given as a prize, premium, or consideration for a lottery, contest, game of chance, game of skill, or competition of any kind.

(9) (a) Except as provided in subsection (9)(c), an adult-use dispensary or medical marijuana dispensary must have a single, secured entrance for patrons and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance in accordance with department rule.

(b) Except as provided in subsection (9)(c), a marijuana business that is not an adult-use dispensary or medical marijuana dispensary ~~must~~ shall implement security measures in accordance with

department rule to deter and prevent the theft of marijuana and unauthorized entrance.

(c) The provisions of this subsection (9) do not supersede any state or local requirements relating to minimum numbers of points of entry or exit or any state or local requirements relating to fire safety.

(10) Each marijuana business shall install a video monitoring system that must, at a minimum:

(a) allow for the transmission and storage, by digital means, of a video feed that displays the interior and exterior of the cannabis establishment; and

(b) be capable of being recorded as prescribed by the department.

(11) An adult-use dispensary or medical marijuana dispensary may not operate between the hours of 8 p.m. and 9 a.m. daily.

(12) A person under 21 years of age is not permitted inside a marijuana business unless the person is an employee of the marijuana business or a registered cardholder."

Section 16. Section 16-12-208, MCA, is amended to read:

"**16-12-208. Restrictions.** (1) A cultivator or manufacturer may not cultivate marijuana or manufacture marijuana products in a manner that is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids.

(2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location other than the licensed premises approved by the department and within an enclosed area that is secured in a manner that prevents access by unauthorized persons.

(3) A licensee shall make the licensed premises, books, and records available to the department for inspection and audit under 16-12-210 during normal business hours.

(4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee.

(5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

(6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-resistant exit packaging that complies with federal child resistance standards and is designed to be significantly difficult for children under 5 years of age to open and not difficult for adults to use properly.

(b) (i) Packaging of individual products may contain only the following design elements and language on a white label:

(A) the seller's business name and any accompanying logo or design mark;

(B) the name of the product; and

(C) the THC content or CBD content, health warning messages as provided in 16-12-215, and ingredients.

(ii) All packaging and outward labeling, including business logos and design marks, must also comply with any standards or criteria established by the department, including but not limited to allowable symbols and imagery.

(7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer hemp flower, hemp plants, or alcohol from a licensed premises.

(8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for ultimate sale to a consumer or registered cardholder, a licensee or license applicant shall submit both a package and a label application, in a form prescribed by the department, to receive approval from the department.

(b) The initial submission must be made electronically if required by the department. The licensee or license applicant shall submit a physical prototype upon request by the department.

(c) If a license applicant submits packages and labels for preapproval, final determination for packages and labels may not be made until the applicant has been issued a license.

(d) A packaging and label application must include:

(i) a fee provided for in rule by the department;

(ii) documentation that all exit packaging has been certified as child-resistant by a federally qualified third-party child-resistant package testing firm;

(iii) a picture or rendering of and description of the item to be placed in each package; and

(iv) for label applications for inhalable marijuana products that contain nonmarijuana additives:

(A) the nonmarijuana additive's list of ingredients; and

(B) in a form and manner prescribed by the department, information regarding the additive or additives and the manufacturer of the additive or additives.

(9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified receptacle into which marijuana or marijuana products already within a container are placed at the retail point of sale."

Section 17. Section 16-12-209, MCA, is amended to read:

"**16-12-209. Testing of marijuana and marijuana products.** (1) A cultivator, manufacturer, adult-use dispensary, or medical marijuana dispensary may not sell marijuana or marijuana products until the marijuana or marijuana products have been tested by a testing laboratory and meet the requirements of this section. The licensee shall pay for the testing.

(2) A licensee shall submit material that has been collected in accordance with a sampling protocol established by the ~~state laboratory~~ department by rule. The protocol must address the division of marijuana and marijuana products into batch sizes for testing.

(3) The ~~state laboratory~~ department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

(a) the potency of the cannabinoids present; and

(b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The ~~state laboratory~~ department shall establish by rule the acceptable levels of moisture, pesticides, residual solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana products may contain.

(6) The testing laboratory shall:

(a) issue a certificate of analysis certifying the test results; and

(b) report the results to the seed-to-sale tracking system established pursuant to 16-12-105.

(7) A licensee may request that material that has failed to pass the required tests be retested in accordance with the rules adopted by the ~~state laboratory~~ department providing for retesting parameters and requirements.

(8) Marijuana or a marijuana product must include a label indicating that the marijuana or marijuana product has been tested.

(9) (a) The department shall collect and, except as provided in subsection (9)(b), destroy samples of marijuana and marijuana products that fail to meet the acceptable levels to ensure product safety and consumer protection.

(b) If a sample fails due to THC levels in excess of the allowable limit and is not deficient in any other respect, the department may dispose of the sample by means other than destruction in accordance with rule.

(c) The department may contract for the duties under this subsection (9)."

Section 18. Section 16-12-210, MCA, is amended to read:

"**16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees.** (1) (a) The department shall conduct unannounced inspections of licensed premises.

(b) The department may not conduct more than two unannounced inspections of a licensed premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or there is other just and reasonable cause.

(2) (a) The department shall inspect annually each premises operated by a licensee.

(b) The department may collect samples during the inspection of a licensed premises and submit the samples to a testing laboratory ~~or the state laboratory~~ or the analytical laboratory authorized by 80-1-104 for testing as provided by the department by rule.

(3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with consumers and registered cardholders. The records must be open for inspection by the department ~~or state laboratory, as appropriate,~~ and state or local law enforcement agencies.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with a licensee; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana products.

(c) The records and data required under this subsection (3) must be open for inspection by the

department and state or local law enforcement agencies.

(d) The department may require a licensee to furnish information that the department considers necessary for the proper administration of this chapter.

(4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of a licensed premises consists of a locked area, the licensee shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.

(5) The department may not hire or contract with a person to be an inspector if the person, during the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former medical marijuana licensee.

(6) In addition to any other penalties provided under this chapter, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

(c) noncompliance with any provision of this chapter.

(7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances.

(8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in

which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this chapter.

(10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under 16-12-110."

Section 19. Section 16-12-222, MCA, is amended to read:

"**16-12-222. Licensing of marijuana transporters.** (1) (a) A marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of marijuana and marijuana products. A marijuana transporter license is valid for 2 years. A licensed marijuana transporter is responsible for the marijuana and marijuana products ~~once~~ after it takes control of the marijuana or marijuana product.

(b) A marijuana transporter may contract with multiple licensed marijuana businesses.

(c) ~~On or after March 1, 2022, and except~~ Except as otherwise provided in this section, all persons who transport marijuana or marijuana products ~~shall~~ must hold a valid marijuana transporter license. ~~The department shall begin accepting applications on or after January 1, 2022. The department may allow for a reasonable grace period for complying with this requirement.~~

(d) The department shall establish by rule the requirements for licensure and the applicable fee for a marijuana transporter license or the renewal of a transporter license. The department may not license a person to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license under 16-12-203(2).

(2) A person who is not licensed under this chapter ~~must~~ shall apply for and obtain a marijuana transporter license in order to transport marijuana or marijuana products.

(3) A registered cardholder or consumer is not required to possess a marijuana transporter license when purchasing marijuana or marijuana products at a dispensary.

(4) A person who obtains a cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, or testing laboratory license or is an employee of one of those licensees, may:

(a) transport marijuana or marijuana products between other licensed premises without a transporter license so long as the transportation:

(i) complies with rules implementing the seed-to-sale tracking system set forth in 16-12-105; and

(ii) includes a printed manifest containing information as required by the department; and

(b) deliver marijuana from a dispensary to a registered cardholder provided that the person delivering the marijuana or marijuana products:

(i) complies with rules adopted by the department; and

(ii) includes a printed delivery manifest from a dispensary to a registered cardholder containing the registered cardholder's address and cardholder number and the dispensary's address and license number.

(5) (a) A marijuana transporter licensee may maintain a licensed premises to temporarily store marijuana and marijuana products and to use as a centralized distribution point in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(b) The licensed premises must be located in a jurisdiction that permits the operation of a marijuana business and comply with rules adopted by the department.

(c) A marijuana transporter may store and distribute marijuana and marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a license under this chapter.

(6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products throughout the state.

(7) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or registered cardholders only and may not make deliveries of marijuana or marijuana products to individual

consumers.

(8) A person delivering marijuana or marijuana products for a marijuana transporter must possess a valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana transporter licensee."

Section 20. Section 16-12-223, MCA, is amended to read:

"**16-12-223. Licensing of cultivators.** (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility.

(b) Except as provided in subsection (6), the system ~~shall~~ must include, at a minimum, the following license types:

(i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities.

(vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities.

(vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor cultivation facilities.

(viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor cultivation facilities.

(ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor

cultivation facilities.

(x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor cultivation facilities.

(xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor cultivation facilities.

(xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor cultivation facilities.

(xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor cultivation facilities.

(c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(d) When evaluating an initial or renewal license application, the department shall evaluate each proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

(e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application by demonstrating that:

(A) the cultivator is using the full amount of canopy currently authorized;

(B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

(C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by only one tier at a time.

(iii) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, a cultivator may, at any time, increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B).

(iv) The department shall conduct an inspection of the cultivator's registered premises and proposed premises within 30 days of receiving the application and before approving the application.

(f) A marijuana business that has not been issued a license before ~~July 1, 2023~~ July 1, 2025, must be initially licensed at a tier 2 canopy license or lower.

(2) The department is authorized to create additional tiers as necessary.

(3) The department may adopt rules:

(a) for inspection of proposed indoor cultivation facilities under subsection (1);

(b) for investigating owners or applicants for a determination of financial interest; and

(c) in consultation with the department of agriculture and based on well-supported science, to require licensees to adopt practices consistent with the prevention, introduction, and spread of insects, diseases, and other plant pests into Montana.

(4) Initial licensure and annual fees for these licensees are:

(a) $1,000 for a cultivator with a micro tier canopy license;

(b) $2,500 for a cultivator with a tier 1 canopy license;

(c) $5,000 for a cultivator with a tier 2 canopy license;

(d) $7,500 for a cultivator with a tier 3 canopy license;

(e) $10,000 for a cultivator with a tier 4 canopy license;

(f) $13,000 for a cultivator with a tier 5 canopy license;

(g) $15,000 for a cultivator with a tier 6 canopy license;

(h) $17,500 for a cultivator with a tier 7 canopy license;

(i) $20,000 for a cultivator with a tier 8 canopy license;

(j) $23,000 for a cultivator with a tier 9 canopy license;

(k) $27,000 for a cultivator with a tier 10 canopy license;

(l) $32,000 for a cultivator with a tier 11 canopy license; and

(m) $37,000 for a cultivator with a tier 12 canopy license.

(5) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

(6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation."

Section 21. Section 16-12-225, MCA, is amended to read:

"**16-12-225. Combined-use marijuana licensing -- requirements.** (1) The department may issue a total of eight combined-use marijuana licenses to entities that are:

(a) a federally recognized tribe located in the state; or

(b) a business entity that is majority-owned by a federally recognized tribe located in the state.

(2) A combined-use marijuana license consists of one ~~tier 1~~ canopy license and one dispensary license allowing for the operation of a dispensary. ~~Cultivation and dispensary facilities must be located at the same licensed premises.~~

(3) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on land that is located~~:~~

~~(a) within 150 air-miles of the exterior boundary of the associated tribal reservation or, for the Little Shell Chippewa tribe only, within 150 air-miles of the tribal service area; and~~

~~(b)~~ in a county that has satisfied the local government approval provisions in 16-12-301 if the majority of voters in the county voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(4) An applicant under this section must satisfy all licensing requirements under this chapter and is subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products provided for in this chapter.

(5) A license granted under this section must be operated in compliance with all requirements imposed under this chapter.

(6) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe or another majority-owned business of that tribe may not obtain another combined-use license until the prior license is relinquished, lapses, or is revoked by the department."

Section 22. Section 16-12-226, MCA, is amended to read:

"**16-12-226. Marijuana worker permit -- requirements.** (1) A marijuana worker permit is required for an employee who performs work for or on behalf of a marijuana business if the individual participates in any aspect of the marijuana business.

(2) ~~(a) Except as provided in subsection (2)(b), a~~ A marijuana business may not allow an employee to perform any work at the licensed premises until it has verified that the employee has obtained a valid marijuana worker permit issued in accordance with this chapter.

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall obtain a marijuana worker permit within 90 days of January 1, 2022.~~

(3) An applicant for a marijuana worker permit shall submit:

(a) an application on a form prescribed by the department with information including the applicant's:

(i) name;

(ii) mailing address;

(iii) date of birth;

(iv) signature; and

(v) response to conviction history questions requested by the department;

(b) a copy of a driver's license or identification card issued by one of the fifty states in the United States or a passport;

(c) annual proof of having passed training that includes identification, prevention, and reporting for human trafficking, rules and regulations for legal sales of marijuana in Montana, and any other training required by the department; and

(d) a fee established by the department.

(4) (a) Except as provided in subsection (4)(b), an application that does not contain the elements set forth in subsection (3) is incomplete.

(b) The department may review an application prior to receiving the fee but may not issue a permit until the fee is received.

(5) The department shall deny an initial or renewal application if the applicant:

(a) is not 18 years of age or older;

(b) has had a marijuana license or worker permit revoked for a violation of this chapter or any rule adopted under this chapter within 2 years of the date of the application;

(c) has violated any provision of this chapter; or

(d) makes a false statement to the department.

(6) An employee of a licensee shall carry the employee's worker permit at all times when performing work on behalf of a marijuana business.

(7) A person who holds a marijuana worker permit ~~must~~ shall notify the ~~department~~ person's employer in writing within 10 days of:

(a) a conviction for a felony;

(b) the issuance of any citation for violating a marijuana law imposed under this chapter or the marijuana laws of any other state; or

(c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor."

Section 23. Section 16-12-301, MCA, is amended to read:

"**16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until:

(i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection (3) or (4); and

(ii) the business is licensed by the department pursuant to this chapter.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6).

(c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with ~~the department of public health and human services and~~ the department.

(d) For the purpose of this section, the marijuana business categories that must be approved by a local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may operate are:

(i) cultivator;

(ii) manufacturer;

(iii) medical marijuana dispensary, except as provided in subsection (1)(b);

(iv) adult-use dispensary;

(v) combined-use marijuana licensee;

(vi) testing laboratory; and

(vii) marijuana transporter facility.

(e) Marijuana businesses located in counties in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government approval process under subsections (3) through (6).

(2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary is exempt from complying with any local governmental regulations that are adopted under this subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the

expiration of any grace period granted by the locality, whichever is later.

(3) An election regarding whether to approve any or all of the marijuana business categories listed in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137 by:

(a) the qualified electors of a county; or

(b) the qualified electors of a municipality.

(4) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed in accordance with Title 13, chapter 1, part 4.

(b) An election pursuant to this section may be held in conjunction with a regular election of the governing body, general election, or a regular local or special election.

(5) If the qualified electors of a county vote to approve a type of marijuana business to be located in the jurisdiction, the governing body shall enter the approval into the records of the local government and notify the department of the election results.

(6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census:

(i) it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana business from being located in the municipality; and

(ii) the county shall conduct the election in a manner that separates the votes in the municipality from those in the remaining parts of the county.

(b) If a majority of the qualified electors in the county, including the qualified electors in the municipality, vote to approve a category of marijuana business to be located in the county, the county may allow that category of marijuana business to operate in the county.

(c) (i) If a majority of the qualified electors in the municipality vote to approve a category of marijuana business to be located in the municipality, the municipality may allow that type of marijuana business to operate in the municipality.

(ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana business from being located in the municipality, the municipality may not allow that type of marijuana business

to operate in the municipality.

(d) Nothing contained in this subsection (6) prevents any municipality from having a separate election under the terms of this section.

(7) (a) A county or municipality that has voted to approve a category of marijuana business to be located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations within the jurisdiction.

(b) A vote overturning the approval of a category of marijuana business or prohibiting the previously permitted operation of marijuana businesses is effective on the 90th day after the local election is held.

(8) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this chapter."

Section 24. Section 16-12-302, MCA, is amended to read:

"**16-12-302. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is:

(a) a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory, or marijuana transporter or has a marijuana worker permit is guilty of a civil fine not to exceed $1,000; or

(b) a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

(2) An individual convicted under this section may not be licensed under this chapter.

(3) A physician who purposely and knowingly misrepresents any information required under 16-12-509 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both."

Section 25. Section 16-12-310, MCA, is amended to read:

"**16-12-310. Limit on local-option marijuana excise tax rate -- goods subject to tax.** (1) The rate of the local-option marijuana excise tax must be established by the election petition or resolution provided for in 16-12-311, and the rate may not exceed 3%.

(2) The local-option marijuana excise tax is a tax on the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary within a county.

(3) If a county imposes a local-option marijuana excise tax:

(a) 50% of the resulting tax revenue must be retained by the county;

(b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio of the population of ~~the~~ each city or town to the ~~total county~~ population of municipalities within the county; and

(c) the remaining 5% of the resulting tax revenue must be retained by the department to defray costs associated with administering 16-12-309 through 16-12-312 and 16-12-317. The funds retained by the department under this subsection (3)(c) must be deposited into the marijuana state special revenue account established under 16-12-111.

(4) For the purposes of this section, "tax revenue" means the combined taxes collected under any local-option marijuana excise tax collected on retail sales within the county."

Section 26. Section 16-12-311, MCA, is amended to read:

"**16-12-311. Local government excise tax-- election required -- procedure -- notice.** (1) A county that has permitted an adult-use dispensary or medical marijuana dispensary to operate within its borders pursuant to 16-12-301 or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election, may not impose or, except as provided in this section, amend or repeal a local-option marijuana excise tax unless the local-option marijuana excise tax question has been approved by a majority of the qualified electors voting on the question.

(2) The local-option marijuana excise tax question may be presented to the qualified electors of a county by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-135, and 7-5-137 or by a resolution of the governing body of the county.

(3) The petition or resolution referring the taxing question must state:

(a) the rate of the tax, which may not exceed 3% of the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary;

(b) the date when the tax becomes effective, which may not be earlier than 90 days after the election; and

(c) the purposes that may be funded by the tax revenue.

(4) On receipt of an adequate petition, the county's governing body shall hold an election in accordance with Title 13, chapter 1, part 5.

~~(5) (a) Before the local-option marijuana excise tax question is submitted to the electorate, the county shall provide notice of the goods subject to the local-option marijuana excise tax by a method described in 13-1-108.~~

~~(b) The notice must be given two times, with at least 6 days separating the notices. The first notice must be given not more than 45 days prior to the election, and the last notice must be given not less than 30 days prior to the election.~~

~~(6)~~(5) Notice of the election must be given as provided in 13-1-108 and include the information listed in subsection (3) of this section.

~~(7)~~(6) The question of the imposition of a local-option marijuana excise tax may not be placed before the qualified electors more than once in any fiscal year."

Section 27. Section 16-12-508, MCA, is amended to read:

"**16-12-508. Individuals with debilitating medical conditions -- requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through (5), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the individual's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement, on a form prescribed by the department, that the individual will not divert to any

other individual the marijuana or marijuana products that the individual cultivates, manufactures, or obtains through the system of licensed providers for the individual's debilitating medical condition;

(f) the name of the individual's treating physician or referral physician and the street address and telephone number of the physician's office;

(g) the street address where the individual is cultivating marijuana or manufacturing marijuana products if the individual is cultivating marijuana or manufacturing marijuana products for the individual's own use; and

(h) the written certification and accompanying statements from the individual's treating physician or referral physician as required pursuant to 16-12-509.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana;

(ii) indicates whether the minor's custodial parent or legal guardian will be obtaining marijuana or marijuana products for the minor through the system of licensed dispensaries provided for in this chapter; and

(iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and

(C) agrees that the minor will use only marijuana products <u>intended for use by a means other than smoking</u> and will not smoke marijuana;

(c) if the parent or guardian will be serving as the minor's cultivator, undergoes background checks in accordance with subsection (3). The parent or legal guardian shall pay the costs of the background check

and may not obtain a license under this chapter if the parent or legal guardian does not meet the requirements set forth in this chapter.

(d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana purchased for the minor's use in a marijuana product.

(3) A parent serving as a minor's cultivator shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation upon the minor's initial application for a registry identification card and every 5 years after that. The department shall conduct a name-based background check in years when a fingerprint background check is not required.

(4) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 16-12-509 from a second physician in addition to the minor's treating physician or referral physician unless the minor's treating physician or referral physician is an oncologist, neurologist, or epileptologist.

(5) An individual may not be a registered cardholder if the individual is in the custody of or under the supervision of the department of corrections or a youth court."

Section 28. Section 20-1-220, MCA, is amended to read:

"**20-1-220. Use of marijuana and tobacco products in public school building or on public school property prohibited.** (1) An individual may not use a tobacco product, vapor product, marijuana product, or alternative nicotine product in a public school building or on public school property.

(2) (a) Subsection (1) does not apply to the use of a tobacco product, vapor product, marijuana product, or alternative nicotine product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product, vapor product, marijuana product, or alternative nicotine product.

(b) Subsection (1) does not apply to the use of a smoking cessation product by an employee.

(3) The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

(4) A violation of this section is subject to the penalties provided in 50-40-115.

(5) For the purposes of this section, the following definitions apply:

(a) "Alternative nicotine product" means a manufactured noncombustible product that contains nicotine derived from tobacco and that is intended for human consumption by being chewed, absorbed, dissolved, or ingested by any other means.

(b) (i) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer.

(ii) The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, marijuana concentrates, and marijuana intended for use by smoking or vaping.

~~(b)~~(c) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

(ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses.

~~(c)~~(d) "Tobacco product" means a substance intended for human consumption that contains tobacco, including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

~~(d)~~(e) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes:

(i) an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device; and

(ii) a vapor cartridge or other container in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product and device."

Section 29. Repealer. The following sections of the Montana Code Annotated are repealed:

16-12-524. Fraudulent representation -- penalties.

16-12-532. Legislative monitoring.

Section 30. Appropriation. For the biennium beginning July 1, 2023, there is appropriated $405,788 from the marijuana state special revenue account provided for in 16-12-111 to the department of revenue, which comprises 1.5 FTE transferred from the department of public health and human services to the department of revenue and 0.5 new FTE for the department of revenue from House Bill No. 2.

Section 31. Transition. (1) The legislature directs the department of public health and human services to assist the department of revenue with the transfer of FTE, information, materials, and any other marijuana-related assets that the department of revenue considers necessary to implement the regulation of marijuana testing laboratories in the state and exercise authority over the regulation of marijuana testing laboratory licensees in the state.

(2) On July 1, 2023, the department of public health and human services shall transfer to the department of revenue the existing endorsements for any marijuana testing laboratory licensees. Existing endorsements transferred pursuant to this section must be accepted and administered by the department of revenue.

Section 32. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 33. Effective dates. (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2023.

(2) [Sections 3, 8, 11, 13, 20, and 21] and this section are effective on passage and approval.

(3) [Sections 12, 14, 15, 17, 18, 23, and 30] are effective July 1, 2023.

- END -

I hereby certify that the within bill,

HB 128, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____day

of_____, 2023.

_____

President of the Senate

Signed this _____day

of_____, 2023.

HOUSE BILL NO. 128

INTRODUCED BY J. KASSMIER

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING REPORTS TO THE LEGISLATURE; CLARIFYING PERMISSIVE ACTS AND EXCEPTIONS FOR REGISTERED CARDHOLDERS; CLARIFYING LIMITATIONS OF THE MONTANA MARIJUANA REGULATION AND TAXATION ACT; CLARIFYING PENALTIES; REVISING PENALTIES FOR SUSPENDED LICENSES; COMBINING SECTIONS ON LEGISLATIVE MONITORING; CLARIFYING LEGISLATIVE MONITORING DUTIES; REMOVING THE IDENTITY DISCLOSURE REQUIREMENT FOR LICENSEE COMPLAINTS; REMOVING OUTDATED DATES; REMOVING THE BACKGROUND CHECK REQUIREMENT FOR CERTAIN INDIVIDUALS; EXTENDING THE MORATORIUM FOR NEW MARIJUANA LICENSES; TRANSFERRING AUTHORITY OVER MARIJUANA TESTING LABORATORIES; CLARIFYING THE MINIMUM AGE TO ENTER A MARIJUANA BUSINESS; CLARIFYING LEGISLATIVE INTENT ON A CULTIVATOR'S ABILITY TO INCREASE TIERS; REVISING REQUIREMENTS FOR A COMBINED-USE LICENSE; REVISING REPORTING REQUIREMENTS FOR EMPLOYEE CONVICTIONS OR VIOLATIONS; COMBINING SECTIONS ON FRAUDULENT REPRESENTATION; CLARIFYING THE FORMULA FOR MUNICIPAL TAX REVENUE ALLOCATION; REMOVING CONFLICTING NOTICE REQUIREMENTS; EXTENDING RULEMAKING AUTHORITY; REVISING DEFINITIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 5-11-222, 15-64-101, 16-12-102, 16-12-104, 16-12-106, 16-12-108, 16-12-109, 16-12-110, 16-12-125, 16-12-129, 16-12-201, 16-12-202, 16-12-203, 16-12-206, 16-12-207, 16-12-208, 16-12-209, 16-12-210, 16-12-222, 16-12-223, 16-12-225, 16-12-226, 16-12-301, 16-12-302, 16-12-310, 16-12-311, 16-12-508, AND 20-1-220, MCA; REPEALING SECTIONS 16-12-524 AND 16-12-532, MCA; AND PROVIDING EFFECTIVE DATES.

HOUSE BILL NO. 128

INTRODUCED BY J. KASSMIER

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING REPORTS TO THE LEGISLATURE; CLARIFYING PERMISSIVE ACTS AND EXCEPTIONS FOR REGISTERED CARDHOLDERS; CLARIFYING LIMITATIONS OF THE MONTANA MARIJUANA REGULATION AND TAXATION ACT; CLARIFYING PENALTIES; REVISING PENALTIES FOR SUSPENDED LICENSES; COMBINING SECTIONS ON LEGISLATIVE MONITORING; CLARIFYING LEGISLATIVE MONITORING DUTIES; REMOVING THE IDENTITY DISCLOSURE REQUIREMENT FOR LICENSEE COMPLAINTS; REMOVING OUTDATED DATES; REMOVING THE BACKGROUND CHECK REQUIREMENT FOR CERTAIN INDIVIDUALS; EXTENDING THE MORATORIUM FOR NEW MARIJUANA LICENSES; TRANSFERRING AUTHORITY OVER MARIJUANA TESTING LABORATORIES; CLARIFYING THE MINIMUM AGE TO ENTER A MARIJUANA BUSINESS; CLARIFYING LEGISLATIVE INTENT ON A CULTIVATOR'S ABILITY TO INCREASE TIERS; REVISING REQUIREMENTS FOR A COMBINED-USE LICENSE; REVISING REPORTING REQUIREMENTS FOR EMPLOYEE CONVICTIONS OR VIOLATIONS; COMBINING SECTIONS ON FRAUDULENT REPRESENTATION; CLARIFYING THE FORMULA FOR MUNICIPAL TAX REVENUE ALLOCATION; REMOVING CONFLICTING NOTICE REQUIREMENTS; EXTENDING RULEMAKING AUTHORITY; REVISING DEFINITIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 5-11-222, 15-64-101, 16-12-102, 16-12-104, 16-12-106, 16-12-108, 16-12-109, 16-12-110, 16-12-125, 16-12-129, 16-12-201, 16-12-202, 16-12-203, 16-12-206, 16-12-207, 16-12-208, 16-12-209, 16-12-210, 16-12-222, 16-12-223, 16-12-225, 16-12-226, 16-12-301, 16-12-302, 16-12-310, 16-12-311, 16-12-508, AND 20-1-220, MCA; REPEALING SECTIONS 16-12-524 AND 16-12-532, MCA; AND PROVIDING EFFECTIVE DATES.”

WHEREAS, during the 2021-2022 interim, the Economic Affairs Interim Committee received testimony relating to the interpretation and implementation of the Montana Marijuana Regulation and Taxation Act; and

WHEREAS, specifically, the committee received testimony that section 16-12-223, MCA, allowed only

qualifying marijuana cultivator licensees to increase production tiers at the licensee's renewals and not at the licensee's discretion; and

WHEREAS, the committee disagreed with this interpretation and provided its analysis; and

WHEREAS, the issue was resolved to the committee's satisfaction; and

WHEREAS, this bill amends section 16-12-223, MCA, to remove all existing doubt whether the Legislature intended to allow a qualifying marijuana cultivator licensee to increase production tiers at their discretion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-11-222, MCA, is amended to read:

"**5-11-222. Reports to legislature.** (1) (a) Except as provided in ~~subsection~~ subsections (1)(b) and (6), a report to the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or before September 1 of each year preceding the convening of a regular session of the legislature.

(b) If otherwise specified in law, a report may be required more or less frequently than the biennial requirement in subsection (1)(a).

(2) Reports to the legislature include:

(a) annual reports on the unified investment program for public funds and public retirement systems and state compensation insurance fund assets audits from the board of investments in accordance with Article VIII, section 13, of the Montana constitution;

(b) federal mandates requirements from the governor in accordance with 2-1-407;

(c) activities of the state records committee in accordance with 2-6-1108;

(d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

(e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-410;

(f) progress on gender and racial balance from the governor in accordance with 2-15-108;

(g) a mental health report from the ombudsman in accordance with 2-15-210;

(h) policies related to children and families from the interagency coordinating council for state

prevention in accordance with 2-15-225;

(i) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

(j) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board in accordance with 2-15-3113;

(k) the allocation of space report from the department of administration required in accordance with 2-17-101;

(l) information technology activities in accordance with 2-17-512;

(m) state strategic information technology plan exceptions, if granted, from the department of administration in accordance with 2-17-515;

(n) the state strategic information technology plan and biennial report from the department of administration in accordance with 2-17-521 and 2-17-522;

(o) reports from standing, interim, and administrative committees, if prepared, in accordance with 2-17-825 and 5-5-216;

(p) statistical and other data related to business transacted by the courts from the court administrator, if requested, in accordance with 3-1-702;

(q) the judicial standards commission report in accordance with 3-1-1126;

(r) an annual report on the actual cost of legislation that had a projected fiscal impact from the office of budget and program planning in accordance with 5-4-208;

(s) a link to annual state agency reports on grants awarded in the previous fiscal year established by the legislative finance committee in accordance with 5-12-208;

(t) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in accordance with 5-12-302(4);

(u) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may impair the independence of the legislative audit division in accordance with 5-13-305;

(v) if a waste of state resources occurs, a report from the legislative state auditor, in accordance with 5-13-311;

(w) school funding commission reports each fifth interim in accordance with 5-20-301;

(x) a report of political committee operations conducted on state-owned property, if required, from

a political committee to the legislative services division in accordance with 13-37-404;

(y) a report concerning taxable value from the department of revenue in accordance with 15-1-205;

(z) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;

(aa) semiannual reports on the Montana heritage preservation and development account from the Montana heritage preservation and development commission in accordance with 15-65-121;

(bb) general marijuana regulation reports and medical marijuana registry reports from the department of revenue in accordance with 16-12-110;

~~(cc) medical marijuana registry reports from the department of revenue in accordance with 16-12-532 (3);~~

~~(dd)~~(cc) annual reports on general fund and nongeneral fund encumbrances from the department of administration in accordance with 17-1-102;

~~(ee)~~(dd) loans or loan extensions authorized for two consecutive fiscal years from the department of administration and office of commissioner of higher education, including negative cash balances from the commissioner of higher education, in accordance with 17-2-107;

~~(ff)~~(ee) a report of local government entities that have balances contrary to limitations provided for in 17-2-302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;

~~(gg)~~(ff) an annual report from the board of investments in accordance with 17-5-1650(2);

~~(hh)~~(gg) a report on retirement system trust investments and benefits from the board of investments in accordance with 17-6-230;

~~(ii)~~(hh) recommendations for reductions in spending and related analysis, if required, from the office of budget and program planning in accordance with 17-7-140;

~~(jj)~~(ii) a statewide facility inventory and condition assessment from the department of administration in accordance with 17-7-202;

~~(kk)~~(jj) actuary reports and investigations for public retirement systems from the public employees' retirement board in accordance with 19-2-405;

~~(ll)~~(kk) a work report from the public employees' retirement board in accordance with 19-2-

407;

~~(mm)~~(ll) annual actuarial reports and evaluations from the teachers' retirement board in accordance with 19-20-201;

~~(nn)~~(mm) reports from the state director of K-12 career and vocational and technical education, as requested, in accordance with 20-7-308;

~~(oo)~~(nn) 5-year state plan for career and technical education reports from the board of regents in accordance with 20-7-330;

~~(pp)~~(oo) a gifted and talented students report from the office of public instruction in accordance with 20-7-904;

~~(qq)~~(pp) status changes for at-risk students from the office of public instruction in accordance with 20-9-328;

~~(rr)~~(qq) status changes for American Indian students from the office of public instruction in accordance with 20-9-330;

~~(ss)~~(rr) reports regarding the Montana Indian language preservation program from the office of public instruction in accordance with 20-9-537;

~~(tt)~~(ss) proposals for funding community colleges from the board of regents in accordance with 20-15-309;

~~(uu)~~(tt) expenditures and activities of the Montana agricultural experiment station and extension service, as requested, in accordance with 20-25-236;

~~(vv)~~(uu) reports, if requested by the legislature, from the president of each of the units of the higher education system in accordance with 20-25-305;

~~(ww)~~(vv) reports, if prepared by a public postsecondary institution, regarding free expression activities on campus in accordance with 20-25-1506;

~~(xx)~~(ww) reports from the Montana historical society trustees in accordance with 22-3-107;

~~(yy)~~(xx) state lottery reports in accordance with 23-7-202;

~~(zz)~~(yy) a report from the division of banking and financial institutions, if required, from the department of administration in accordance with 32-11-306;

~~(aaa)~~(zz) state fund reports, if required, from the commissioner in accordance with 33-1-115;

~~(bbb)~~(aaa) reports from the department of labor and industry in accordance with 39-6-101;

~~(ccc)~~(bbb) victim unemployment benefits reports from the department of labor and industry in accordance with 39-51-2111;

~~(ddd)~~(ccc) state fund business reports in accordance with 39-71-2363;

~~(eee)~~(ddd) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;

~~(fff)~~(eee) child custody reports from the office of the court administrator in accordance with 41-3-1004;

~~(ggg)~~(fff) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the governor in accordance with 46-23-316;

~~(hhh)~~(ggg) annual statewide public defender reports from the office of state public defender in accordance with 47-1-125;

~~(iii)~~(hhh) a trauma care system report from the department of public health and human services in accordance with 50-6-402;

~~(jjj)~~(iii) an older Montanans trust fund report from the department of public health and human services in accordance with 52-3-115;

~~(kkk)~~(jjj) Montana criminal justice oversight council reports in accordance with 53-1-216;

~~(lll)~~(kkk) medicaid block grant reports from the department of public health and human services in accordance with 53-1-611;

~~(mmm)~~(lll) reports on the approval and implementation status of medicaid section 1115 waivers in accordance with 53-2-215;

~~(nnn)~~(mmm) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

~~(ooo)~~(nnn) medicaid funding reports from the department of public health and human services in accordance with 53-6-110;

~~(ppp)~~(ooo) proposals regarding managed care for medicaid recipients, if required, from the department of public health and human services in accordance with 53-6-116;

~~(qqq)~~(ppp) suicide reduction plans from the department of public health and human services in

accordance with 53-21-1102;

~~(rrr)~~(qqq) a compliance and inspection report from the department of corrections in accordance with 53-30-604;

~~(sss)~~(rrr) emergency medical services grants from the department of transportation in accordance with 61-2-109;

~~(ttt)~~(sss) annual financial reports on the environmental contingency account from the department of environmental quality in accordance with 75-1-1101;

~~(uuu)~~(ttt) the Flathead basin commission report in accordance with 75-7-304;

~~(vvv)~~(uuu) a report from the land board, if prepared, in accordance with 76-12-109;

~~(www)~~(vvv) an annual state trust land report from the land board in accordance with 77-1-223;

~~(xxx)~~(www) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-713;

~~(yyy)~~(xxx) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

~~(zzz)~~(yyy) reports on the allocation of renewable resources grants and loans for emergencies, if required, from the department of natural resources and conservation in accordance with 85-1-605;

~~(aaaa)~~(zzz) water storage projects from the governor's office in accordance with 85-1-704;

~~(bbbb)~~(aaaa) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-338;

~~(cccc)~~(bbbb) upland game bird enhancement program reports in accordance with 87-1-250;

~~(dddd)~~(cccc) private land/public wildlife advisory committee reports in accordance with 87-1-269;

~~(eeee)~~(dddd) a future fisheries improvement program report from the department of fish, wildlife, and parks in accordance with 87-1-272;

~~(ffff)~~(eeee) license revenue recommendations from the department of fish, wildlife, and parks in accordance with 87-1-629;

~~(gggg)~~(ffff) land information data reports from the state library in accordance with 90-1-404;

~~(hhhh)~~(gggg) hydrocarbon and geology investigation reports from the bureau of mines and geology in accordance with 90-2-201;

~~(iiii)~~(hhhh) coal ash markets investigation reports from the department of commerce in accordance with 90-2-202;

~~(jjjj)~~(iiii) an annual report from the pacific northwest electric power and conservation planning council in accordance with 90-4-403;

~~(kkkk)~~(jjjj) community property-assessed capital enhancements program reports from the Montana facility finance authority in accordance with 90-4-1303;

~~(llll)~~(kkkk) veterans' home loan mortgage loan reports from the board of housing in accordance with 90-6-604;

~~(mmmm)~~(llll) matching infrastructure planning grant awards by the department of commerce in accordance with 90-6-703(3); and

~~(nnnn)~~(mmmm) treasure state endowment program reports from the department of commerce in accordance with 90-6-710;

(3) Reports to the legislature include reports made to an interim committee as follows:

(a) reports to the law and justice interim committee, including:

(i) findings of the domestic violence fatality review commission in accordance with 2-15-2017;

(ii) the report from the missing indigenous persons review commission in accordance with 2-15-2018;

(iii) reports from the department of justice and public safety officer standards and training council in accordance with 2-15-2029;

(iv) information on the Montana False Claims Act from the department of justice in accordance with 17-8-416;

(v) annual case status reports from the attorney general in accordance with 41-3-210;

(vi) office of court administrator reports in accordance with 41-5-2003;

(vii) statewide public safety communications system activities from the department of justice in accordance with 44-4-1606;

(viii) reports on the status of the crisis intervention team training program from the board of crime control in accordance with 44-7-110;

(ix) restorative justice grant program status and performance from the board of crime control in

accordance with 44-7-302;

(x) reports on offenders under supervision with new offenses or violations from the department of corrections in accordance with 46-23-1016;

(xi) supervision responses grid reports from the department of corrections in accordance with 46-23-1028;

(xii) statewide public defender reports and information from the office of state public defender in accordance with 47-1-125;

(xiii) every 5 years, a percentage change in public defender funding report from the legislative fiscal analyst in accordance with 47-1-125;

(xiv) every 5 years, statewide public defender reports on the percentage change in funding from the office of state public defender in accordance with 47-1-125; and

(xv) a report from the quality assurance unit from the department of corrections in accordance with 53-1-211;

(b) reports to the state administration and veterans' affairs interim committee, including:

(i) a report that includes information technology activities and additional information from the information technology board in accordance with 2-17-512 and 2-17-513;

(ii) a report from the capitol complex advisory council in accordance with 2-17-804;

(iii) a report on the employee incentive award program from the department of administration in accordance with 2-18-1103;

(iv) a board of veterans' affairs report in accordance with 10-2-102;

(v) a report on grants to the Montana civil air patrol from the department of military affairs in accordance with 10-3-802;

(vi) annual reports on statewide election security from the secretary of state in accordance with 13-1-205;

(vii) a report regarding the youth voting program, if requested, from the secretary of state in accordance with 13-22-108;

(viii) a report from the commissioner of political practices in accordance with 13-37-120;

(ix) a report on retirement system trust investments from the board of investments in accordance

with 17-6-230;

(x) actuarial valuations and other reports from the public employees' retirement board in accordance with 19-2-405 and 19-3-117;

(xi) actuarial valuations and other reports from the teachers' retirement board in accordance with 19-20-201 and 19-20-216;

(xii) a report on the reemployment of retired members of the teachers' retirement system from the teachers' retirement board in accordance with 19-20-732; and

(xiii) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the secretary of state in accordance with 30-9A-527;

(c) reports to the children, families, health, and human services interim committee, including:

(i) performance data from the department of public health and human services in accordance with 2-15-2225;

(ii) quarterly reports on data requirements from the department of public health and human services in accordance with 5-12-303;

(iii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(iv) Montana HELP Act workforce development reports from the department of public health and human services in accordance with 39-12-103;

(v) annual reports from the child and family ombudsman in accordance with 41-3-1211;

(vi) reports on activities and recommendations on child protective services activities, if required, from the child and family ombudsman in accordance with 41-3-1215;

(vii) reports on the out-of-state placement of high-risk children with multiagency service needs from the department of public health and human services in accordance with 52-2-311;

(viii) private alternative adolescent residential and outdoor programs reports from the department of public health and human services in accordance with 52-2-803;

(ix) an annual Montana parents as scholars program report from the department of public health and human services in accordance with 53-4-209;

(x) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(xi) a report concerning mental health managed care services, if managed care is in place, from the advisory council in accordance with 53-6-710;

(xii) quarterly medicaid reports related to expansion from the department of public health and human services in accordance with 53-6-1325;

(xiii) annual Montana developmental center reports from the department of public health and human services in accordance with 53-20-225; and

(xiv) annual children's mental health outcomes from the department of public health and human services in accordance with 53-21-508;

(xv) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(d) reports to the economic affairs interim committee, including:

(i) the annual state compensation insurance fund budget from the board of directors in accordance with 5-5-223 and 39-71-2363;

(ii) general marijuana regulation reports from the department of revenue in accordance with 16-12-110(3);

(iii) medical marijuana registry reports from the department of revenue in accordance with ~~16-12-532(3)~~ 16-12-110;

(iv) annual reports on complaints against physicians certifying medical marijuana use from the board of medical examiners in accordance with ~~16-12-532(4)~~ 16-12-110(6);

(v) an annual report on the administrative rate required from the department of commerce from the Montana heritage preservation and development commission in accordance with 22-3-1002;

(vi) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;

(vii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-71-2375;

(viii) annual reinsurance reports from the Montana reinsurance association board required in accordance with 33-22-1308;

(ix) reports from the department of labor and industry concerning board attendance in accordance with 37-1-107;

(x) annual reports on physician complaints related to medical marijuana from the board of medical examiners in accordance with 37-3-203;

(xi) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(xii) status reports on the special revenue account and fees charged as a funding source from the board of funeral service in accordance with 37-19-204;

(xiii) unemployment insurance program integrity act reports from the department of labor and industry in accordance with 39-15-706;

(xiv) status reports on the distressed wood products industry revolving loan program from the department of commerce in accordance with 90-1-503;

(e) reports to the education interim committee, including:

(i) reemployment of retired teachers, specialists, and administrators reports from the retirement board in accordance with 19-20-732;

(ii) a report on participation in the interstate compact on educational opportunity for military children in accordance with 20-1-231;

(iii) grow your own grant program reports from the commissioner of higher education in accordance with 20-4-601;

(iv) standards of accreditation proposals and economic impact statements from the board of public education in accordance with 20-7-101;

(v) advanced opportunity program reports from the board of public education in accordance with 20-7-1506;

(vi) progress on transformational learning plans from the board of public education in accordance with 20-7-1602;

(vii) budget amendments, if needed, from school districts in accordance with 20-9-161;

(viii) annual Montana resident student financial aid program reports from the commissioner of higher education in accordance with 20-26-105;

(ix) a historic preservation office report from the historic preservation officer in accordance with 22-3-423; and

(x) interdisciplinary child information agreement reports from the office of public instruction in

accordance with 52-2-211;

(f) reports to the energy and telecommunications interim committee, including:

(i) the high-performance building report from the department of administration in accordance with 17-7-214;

(ii) an annual report from the consumer counsel in accordance with 69-1-222;

(iii) annual universal system benefits reports from utilities, electric cooperatives, and the department of revenue in accordance with 69-8-402;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501; and

(v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-1301;

(g) reports to the revenue interim committee, including:

(i) use of the qualified endowment tax credit report from the department of revenue in accordance with 15-1-230;

(ii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with 15-7-111;

(iii) gray water property tax abatement usage reports from the department of revenue in accordance with 15-24-3211;

(iv) information about job growth incentive tax credits from the department of revenue in accordance with 15-30-2361;

(v) student scholarship contributions from the department of revenue in accordance with 15-30-3112;

(vi) tax havens from the department of revenue in accordance with 15-31-322;

(vii) media production tax credit economic impact reports from the department of commerce in accordance with 15-31-1011; and

~~(viii) medical marijuana registry reports from the department of revenue in accordance with 16-12-532 (5);~~

~~(ix) complaints against physicians certifying use of medical marijuana from the board of medical~~

~~examiners in accordance with 16-12-532 (5); and~~

~~(x)~~(viii) reports that actual or projected receipts will result in less revenue than estimated from the office of budget and program planning, if necessary, in accordance with 17-7-140;

(h) reports to the transportation interim committee, including:

(i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;

(ii) cooperative agreement negotiations from the department of transportation in accordance with 15-70-450;

(iii) an annual alternative project delivery contracting report from the department of transportation in accordance with 60-2-119; and

(iv) a special fuels inspection report from the department of transportation in accordance with 61-10-154;

(i) reports to the environmental quality council, including:

(i) compliance and enforcement reports required in accordance with 75-1-314;

(ii) the state solid waste management and resource recovery plan, every 5 years, from the department of environmental quality in accordance with 75-10-111;

(iii) annual orphan share reports from the department of environmental quality in accordance with 75-10-743;

(iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;

(v) annual subdivision sanitation reports from the department of environmental quality in accordance with 76-4-116;

(vi) state trust land accessibility reports from the department of natural resources and conservation in accordance with 77-1-820;

(vii) biennial land banking reports and annual state land cabin and home site sales reports from the department of natural resources and conservation in accordance with 77-2-366;

(viii) biennially invasive species reports from the departments of fish, wildlife, and parks and natural resources and conservation in accordance with 80-7-1006;

(ix) annual upper Columbia conservation commission reports in accordance with 80-7-1026;

(x) annual invasive species council reports in accordance with 80-7-1203;

(xi) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;

(xii) annual sage grouse population reports from the department of fish, wildlife, and parks in accordance with 87-1-201;

(xiii) annual gray wolf management reports from the department of fish, wildlife, and parks in accordance with 87-1-901;

(xiv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in accordance with 87-2-702;

(xv) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in accordance with 87-5-807; and

(xvi) annual sage grouse oversight team activities and staffing reports in accordance with 87-5-918;

(j) reports to the water policy interim committee, including:

(i) drought and water supply advisory committee reports in accordance with 2-15-3308;

(ii) total maximum daily load reports from the department of environmental quality in accordance with 75-5-703;

(iii) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501;

(v) renewable resource grant and loan program reports from the department of natural resources and conservation in accordance with 85-1-621;

(vi) quarterly adjudication reports from the department of natural resources and conservation and the water court in accordance with 85-2-281;

(vii) water reservation reports from the department of natural resources and conservation in accordance with 85-2-316;

(viii) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-436; and

(ix) ground water investigation program reports from the bureau of mines and geology in accordance with 85-2-525;

(k) reports to the local government interim committee, including:

(i) sand and gravel, if an investigation is completed, in accordance with 82-2-701;

(ii) assistance to local governments on federal land management proposals from the department of commerce in accordance with 90-1-182; and

(iii) emergency financial assistance to local government reports from the department of commerce, if requests are made, in accordance with 90-6-703(2);

(l) reports to the state-tribal relations committee, including:

(i) reports from the missing indigenous persons review commission in accordance with 2-15-2018;

(ii) the Montana Indian language preservation program report from the state-tribal economic development commission in accordance with 20-9-537;

(iii) reports from the missing indigenous persons task force in accordance with 44-2-411

(iv) a decennial economic contributions and impacts of Indian reservations report from the department of commerce in accordance with 90-1-105;

(v) state-tribal economic development commission activities reports from the state-tribal economic development commission in accordance with 90-1-132; and

(vi) state-tribal economic development commission reports provided regularly by the state director of Indian affairs in accordance with 90-11-102.

(4) (a) Except as provided in subsections (4)(b) and (6) and unless otherwise required by law, a report made to the legislature in accordance with subsection (3) may be provided orally before September 1 of each year preceding the convening of a regular session of the legislature and in accordance with 5-11-210(1)(b).

(b) After receiving an oral report, an interim or administrative committee responsible for receiving the report may request a written report be filed with the legislature in accordance with 5-11-210(1)(a).

(c) This section may not be interpreted to preclude an interim or administrative committee from requesting additional information.

(5) Reports to the legislature include multistate compact and agreement reports including:

(a) multistate tax compact reports in accordance with 15-1-601;

(b) interstate compact on educational opportunity for military children reports in accordance with

20-1-230 and 20-1-231;

(c) compact for education reports in accordance with 20-2-501;

(d) Western regional higher education compact reports in accordance with 20-25-801;

(e) interstate insurance product regulation compact reports in accordance with 33-39-101;

(f) interstate medical licensure compact reports in accordance with 37-3-356;

(g) interstate compact on juveniles reports in accordance with 41-6-101;

(h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

(i) vehicle equipment safety compact reports in accordance with 61-2-201;

(j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

(k) western interstate nuclear compact reports in accordance with 90-5-201.

(6) Reports, transfers, statements, assessments, recommendations and changes required under 17-7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 20-7-101, 23-7-202, 33-1-115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports required in subsections (2)(a), ~~(2)(gg)~~ (2)(ff), ~~(2)(hh)~~ (2)(gg), and (3)(b)(ix) must be provided following issuance of reports issued under Title 5, chapter 13."

Section 2. Section 15-64-101, MCA, is amended to read:

"**15-64-101. Definitions.** As used in this part, the following definitions apply:

(1) "Adult-use dispensary" has the meaning provided in 16-12-102.

(2) "Customer" means a person to whom a sale of marijuana or a marijuana product is made.

~~(2)~~(3) "Department" means the department of revenue provided for in 2-15-1301.

~~(3)~~(4) "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.

~~(4)~~(5) "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana dispensary.

~~(5)~~(6) "Marijuana" has the meaning provided in 16-12-102.

~~(6)~~(7) "Marijuana product" has the meaning provided in 16-12-102.

~~(7)~~(8) "Medical marijuana dispensary" has the meaning provided in 16-12-102.

~~(8)~~(9) "Person" means an individual, firm, partnership, corporation, association, company, committee,

other group of persons, or other business entity, however formed.

~~(9) "Purchaser" means a person to whom a sale of marijuana or a marijuana product is made.~~

(10) "Retail price" means the established price for which an adult-use dispensary or medical marijuana dispensary sells marijuana or a marijuana product to a purchaser before any discount or reduction.

(11) "Sale" or "sell" means any transfer of marijuana or marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means."

Section 3. Section 16-12-102, MCA, is amended to read:

"**16-12-102. Definitions.** As used in this chapter, the following definitions apply:

(1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may:

(a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and

(b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.

(3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

(4) "Canopy" means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.

(6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

(7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

(a) is a natural person, an entity that is organized under the laws of and for which its principal

place of business is located in one of the states or territories of the United States or District of Columbia, or a publicly traded corporation, and:

(i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;

(ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or

(iii) is otherwise in a position to control the marijuana business; or

(b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.

(8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction.

(9) "Cultivator" means a person licensed by the department to:

(a) plant, cultivate, grow, harvest, and dry marijuana; and

(b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(10) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder.

(11) "Department" means the department of revenue provided for in 2-15-1301.

(12) (a) "Employee" means an individual employed to do something for the benefit of an employer.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net profits or net worth of the entity in which the interest is held.

(b) The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance but does include holders of private loans or convertible securities.

(14) "Former medical marijuana licensee" means a person that was licensed by or had an application for licensure pending with the department of public health and human services to provide marijuana to individuals with debilitating medical conditions on ~~November 3, 2020~~ April 27, 2021.

(15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight.

(b) The term may include:

(i) a greenhouse;

(ii) a hoop house; or

(iii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

(16) "Licensed premises" means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

(17) "Licensee" means a person holding a state license issued pursuant to this chapter.

(18) "Local government" means a county, a consolidated government, or an incorporated city or town.

(19) "Manufacturer" means a person licensed by the department to convert or compound marijuana

into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or relabel marijuana products as allowed under this chapter.

(20) (a) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(b) The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(c) The term does not include a drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department under this chapter.

(22) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products.

(24) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer ~~by a means other than smoking~~. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates, including concentrates intended for use by smoking or vaping.

(25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

(26) "Mature marijuana plant" means a harvestable marijuana plant.

(27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a cardholder who is registered under Title 16, chapter 12, part 5.

(28) "Medical marijuana dispensary" means the location from which a registered cardholder may obtain marijuana or marijuana products.

(29) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.

(30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

(31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

(32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana business that is not otherwise a controlling beneficial owner or in control.

(33) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(34) "Qualified institutional investor" means:

(a) a bank or banking institution including any bank, trust company, member bank of the federal reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and doing business under the laws of this state, any other state, or the laws of the United States;

(b) a bank holding company as defined in 32-1-109;

(c) a company organized as an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to regulation or oversight by the insurance department of the office of the state auditor or a similar agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their capacity as such an insurance company;

(d) an investment company registered under section 8 of the federal Investment Company Act of 1940, as amended;

(e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income

Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

(f) a state or federal government pension plan; or

(g) any other entity identified by rule by the department.

(35) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(36) "Registry identification card" means a document issued by the department pursuant to 16-12-503 that identifies an individual as a registered cardholder.

(37) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this chapter if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(38) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(39) "State laboratory" means the laboratory operated by the department of public health and human services to conduct environmental analyses.~~

~~(40)~~(39) "Testing laboratory" means a qualified person, licensed under this chapter that:

(a) provides testing of representative samples of marijuana and marijuana products; and

(b) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

~~(41)~~(40) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual.

(b) The term does not include the seeds, stalks, and roots of the plant. (Subsection (15)(b)(ii) terminates October 1, 2023--sec. 117(1), Ch. 576, L. 2021.)"

Section 4. Section 16-12-104, MCA, is amended to read:

"**16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

(2) (a) The department shall issue the following license types to persons who submit applications meeting the requirements of this chapter:

(i) cultivator license;

(ii) manufacturer license;

(iii) adult-use dispensary license or a medical marijuana dispensary license;

(iv) testing laboratory license.

(v) marijuana transporter license.

(vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

(3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

(4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

(5) The department shall assess applications for licensure or renewal to determine if an applicant, controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria established in this chapter for denial of a license.

(6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in rule by the department.

(7) (a) The department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

(i) within 60 days of receiving the application or renewal and all related application materials from a former medical marijuana licensee or an existing licensee under this chapter; and

(ii) within 120 days of receiving the application and all related application materials from a new applicant.

(b) If the department fails to act on a completed application within the time allowed under subsection (7)(a), the department shall:

(i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(ii) allow a licensee to continue operation until the department takes final action.

(c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.

(d) The department shall issue a license or endorsement within 5 days of approving an application or renewal.

(8) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) Licenses issued under this chapter must be renewed annually.

(10) (a) The department shall provide the names and phone numbers of persons, including the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (10)(b), the department may not disclose the physical location or address of a marijuana business.

(b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal.

(c) The name of a controlling beneficial owner is not considered confidential information as defined in 2-6-1002.

(11) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee operating in compliance with the requirements of this chapter from operating at a shared location with a medical

marijuana dispensary.

(12) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than government-issued identification to determine the consumer's age. A licensee that scans a person's driver's license using an electronic reader to determine the person's age:

(a) may only use data or metadata from the scan determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department.

(13) (a) Except as provided in subsection (13)(b), licenses issued by the department under this chapter are nontransferable.

(b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business.

(14) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner unless the licensee notifies, in writing, the department of the proposed transaction and the department determines that the person qualifies for ownership under the provisions of this chapter."

Section 5. Section 16-12-106, MCA, is amended to read:

"**16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government for a person who is 21 years of age or older or a registered cardholder:

(a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or older or a registered cardholder, 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(c) in or on the grounds of a private residence, possessing, planting, or cultivating up to two mature marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered cardholder, and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:

(i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place;

(ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be cultivated in or on the grounds of a single private residence simultaneously;

(iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and

(iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana products for personal use may be shared with, rented, or leased to a marijuana business;

(d) assisting another person who is at least 21 years of age or a registered cardholder, in any of the acts permitted by this section, including allowing another person to use one's personal residence for any of the acts described in this section; and

(e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia relating to marijuana.

(2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for that

activity by the department, is subject to a civil fine not exceeding $50.

(5) For a person who is under 21 years of age and is not a registered cardholder, possession, use, delivery without consideration, or distribution without consideration of marijuana is punishable in accordance with 45-5-624.

(6) For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and 8 hours of drug education or counseling.

(7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

(a) for a first violation, the person's choice between a civil fine not exceeding $200 or completing up to 4 hours of community service in lieu of the fine;

(b) for a second violation, the person's choice between a civil fine not exceeding $300 or completing up to 6 hours of community service in lieu of the fine; and

(c) for a third or subsequent violation, the person's choice between a civil fine not exceeding $500 or completing up to 8 hours of community service in lieu of the fine.

(8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this chapter.

(9) A person may not be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by this chapter."

Section 6. Section 16-12-108, MCA, is amended to read:

"**16-12-108. Limitations of act.** (1) This chapter does not permit:

(a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana products;

(b) consumption of marijuana or marijuana products while operating or being in physical control of

a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(c) smoking or consuming marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(d) delivery or distribution of marijuana or marijuana products, with or without consideration, to a person under 21 years of age, unless the person is a registered cardholder;

(e) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of age, unless the person is a registered cardholder;

(f) possession or transport of marijuana or marijuana products by a person under 21 years of age unless the underage person is a registered cardholder or is at least 18 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work activities;

(g) possession or consumption of marijuana or marijuana products or possession of marijuana paraphernalia:

(i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in 20-5-402;

(ii) in a school bus ~~or other form of public transportation~~;

(iii) in a health care facility as defined in 50-5-101; or

(iv) on the grounds of any correctional facility; ~~or~~

~~(v) in a hotel or motel room;~~

(h) using marijuana or marijuana products in a location where smoking tobacco is prohibited;

(i) smoking marijuana in a hotel or motel room, except for a hotel or motel room that is designated as a smoking room and rented to a guest;

~~(i)~~(j) consumption of marijuana or marijuana products:

(i) in a public place, except as allowed by the department; or

(ii) on trains, buses, or other forms of public transportation.

~~(j)~~(k) conduct that endangers others;

~~(k)~~(l) undertaking any task while under the influence of marijuana or marijuana products if doing so would constitute negligence or professional malpractice; or

~~(l)~~(m) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

(2) (a) A violation of subsections (1)(g)(i) through (1)(g)(iii) and (1)(h) through (1)(j) is subject to the penalties provided for in 50-40-115.

(b) In addition to the penalties provided for in 50-40-115, a person in violation of subsection (1)(g)(iv) may be subject to administrative action by the department of corrections and the department of justice, and a violation of subsection (1)(g)(iv) may be subject to the penalties provided for in 45-7-307.

(c) A violation of subsection (1)(m) is subject to the penalties provided for in 45-9-110(3).

~~(2)~~(3) A person may not cultivate marijuana in a manner that is visible from the street or other public area.

~~(3)~~(4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

~~(4)~~(5) Nothing in this chapter may be construed to:

(a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;

(b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana or marijuana products;

(c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or marijuana products while working;

(d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(e) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

~~(5)~~(6) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages,

except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding.

~~(6)~~(7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the department under Title 15 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

~~(7)~~(8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the conduct of consumers, licensees, and registered cardholders."

Section 7. Section 16-12-109, MCA, is amended to read:

"**16-12-109. Unlawful conduct by licensees -- penalties.** (1) If the department has reasonable cause to believe that a licensee has violated a provision of this chapter or a rule of the department, it may, in its discretion and in addition to any other penalties prescribed:

(a) reprimand a licensee;

(b) revoke the license of the licensee;

(c) suspend the license for a period of ~~not more than 3 months~~ up to 1 year;

(d) refuse to grant a renewal of the license after its expiration; or

(e) impose a civil penalty not to exceed $3,000.

(2) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

(a) compliance with the provisions of this chapter within the prior 3 years;

(b) the licensee has made good faith efforts to prevent a violation; or

(c) the licensee has cooperated in the investigation of the violation and the licensee or an employee or agent of the licensee accepts responsibility.

(3) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

(a) prior warnings about compliance problems;

(b) prior violations of the provisions of this chapter within the past 3 years;

(c) lack of written policies governing employee conduct;

(d) additional violations revealed during the course of the investigation;

(e) efforts to conceal a violation;

(f) intentional violations; or

(g) involvement of more than one patron or employee in a violation.

(4) For each licensing program regulated by the department under this chapter, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

(5) The department shall revoke and may not reissue a license or endorsement belonging to a person:

(a) whose controlling beneficial owner is an individual convicted of a felony drug offense;

(b) who allows another person not authorized or lawfully allowed to be in possession of the license;

(c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by federal law;

(d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing license;

(e) who purchases marijuana from an unauthorized source in violation of this chapter; or

(f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows or should know is under 21 years of age, unless the person is a registered cardholder.

(6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.

(7) (a) Review of a department action imposing a fine, suspension, or revocation under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision."

Section 8. Section 16-12-110, MCA, is amended to read:

"**16-12-110. Legislative monitoring.** (1) The economic affairs interim committee shall provide oversight of ~~the department's~~ activities pursuant to this chapter, including but not limited to monitoring of:

(a) the number of licensees;

(b) (i) the total square footage of canopy licensed in the state; and

(ii) the percentage of total canopy in production;

~~(b)~~(c) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; ~~and~~

~~(c)~~(d) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 16-12-105;

(e) the number of registered cardholders;

(f) the number and type of violations committed by registered cardholders, together with the penalties imposed on registered cardholders by the department; and

(g) laboratory testing procedures performed by the department in accordance with this chapter.

(2) The economic affairs interim committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-12-203 and 16-12-503. The report must include:

(i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;

(ii) the number and type of violations committed by licensees;

(iii) the number of licenses revoked; ~~and~~

(iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter;

(v) the number of applications for registry identification cards and the number of registered cardholders approved;

(vi) the nature of the debilitating medical conditions of the registered cardholders;

(vii) the number of registry identification cards revoked; and

(viii) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.

(b) The report may not provide ~~any identifying information of cultivators, manufacturers, and dispensaries except basic geographic or other statistical information~~ any identifying information of registered cardholders or physicians.

(4) The report on inspections required under 16-12-210 must include, at a minimum, the following information for both announced and unannounced inspections:

(a) the number of inspections conducted, by canopy licensure tier;

(b) the number of licensees that were inspected more than once during the year;

(c) the number of inspections that were conducted because of complaints made to the department; and

(d) the types of enforcement actions taken as a result of the inspections.

(5) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(6) Pursuant to 37-3-203, the board of medical examiners shall report annually in accordance with 5-11-210 to the economic affairs interim committee on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana."

Section 9. Section 16-12-125, MCA, is amended to read:

"**16-12-125. Hotline.** (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of this chapter.

(2) An individual making a complaint must be a resident and shall provide the individual's name, street address, and phone number.

(3) ~~(a)~~ The department shall provide a copy of the complaint to the person or licensee that is the subject of the complaint.

~~(b) The department may not redact the individual's name or city of residence from the complaint copy.~~

(4) The department may:

(a) investigate reports of suspected abuse of the provisions of this chapter; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring."

Section 10. Section 16-12-129, MCA, is amended to read:

"**16-12-129. Department to conduct background checks.** (1) In addition to any other requirement imposed under this chapter, before issuing any license under this chapter the department shall conduct:

(a) a fingerprint-based background check meeting the requirements for a fingerprint-based background check by the department of justice and the federal bureau of investigation in association with an application for initial licensure and every 5 years thereafter; and

(b) a name-based background check in association with an application for initial licensure and each year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based background check.

(2) For the purpose of the background records check required under subsection (1), the department shall obtain fingerprints from each individual listed on an application submitted under this chapter and each individual who has a controlling beneficial ownership or financial interest in the license or prospective license, including:

(a) each partner of an applicant that is a limited partnership;

(b) each member of an applicant that is a limited liability company;

(c) each director and officer of an applicant that is a corporation;

(d) each individual who holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; ~~and~~

(e) each individual who is a partner, member, director, or officer of a legal entity that holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; and

(f) a person designated by the applicant as responsible for operating the licensed establishment on behalf of the licensee.

~~(3) (a) Except as provided in subsection (3)(b), an employee of a marijuana business shall undergo a criminal background check prior to beginning employment.~~

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall undergo a criminal background check within 90 days of January 1, 2022.~~

~~(4)~~(3) The department may establish procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under this section."

Section 11. Section 16-12-201, MCA, is amended to read:

"**16-12-201. Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, the department may only accept applications from and issue licenses to former medical marijuana licensees that were licensed by or had an application pending with the department of public health and human services on ~~November 3, 2020~~ April 27, 2021, and are in good standing with the department and in compliance with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of January 1, 2022.

(b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after ~~July 1, 2023~~ July 1, 2025.

(2) (a) The department shall adopt rules to govern the operation of former medical marijuana licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate license under this chapter with a minimum of disruption to business operations.

(b) Beginning January 1, 2022, a former medical marijuana licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at the adult-use marijuana tax rate set forth in 15-64-102 under the licensee's existing license in a jurisdiction that

allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana licensee's next license renewal date, by which time the former medical licensee must have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is granted by the department.

(c) (i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2), "appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary license, and, if applicable, a manufacturer license.

(ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to registered cardholders is not required to obtain an adult-use dispensary license.

(3) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms may be prorated by the department."

Section 12. Section 16-12-202, MCA, is amended to read:

"**16-12-202. Testing laboratories -- licensing -- inspection ~~-- state laboratory responsibility~~.** (1) (a) A person who obtains a testing laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana as allowed by this chapter.

(b) A person who is a controlling beneficial owner of a testing laboratory or holds a financial interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing services are performed.

(2) (a) The ~~state laboratory~~ department shall endorse a testing laboratory to perform the testing required under 16-12-206 and 16-12-209 before a testing laboratory may apply for licensure or renewal with the department.

(b) (i) The ~~state laboratory~~ department shall inspect a testing laboratory before endorsing a testing laboratory for licensure or renewal and may not endorse a testing laboratory for licensure or renewal if the applicant does not meet the requirements of 16-12-206 and this section.

(ii) The ~~state laboratory~~ department may not issue a temporary license while an inspection is pending.

(3) An inspection conducted for licensure or renewal of a license must include a review of an applicant's or testing laboratory's:

(a) physical premises where testing will be conducted;

(b) instrumentation;

(c) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

(d) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

(e) vehicles used for transporting marijuana or marijuana product samples for testing purposes.

(4) ~~Upon~~ On receiving an endorsement from the ~~state laboratory~~ department for licensure or annual renewal, a testing laboratory must apply for licensure or renewal with the department by submitting to the department:

(a) the information required by 16-12-203; and

(b) a fee that the department shall establish by rule.

(5) The ~~state laboratory~~ department shall:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products;

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants; and

(c) establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that consumers and registered cardholders receive consistent and uniform information about the potency and quality of the marijuana and marijuana products they receive. The ~~state laboratory~~ department shall:

(i) consult with independent national or international organizations that establish testing standards for marijuana and marijuana products;

(ii) require testing laboratories to follow uniform standards and protocols for the samples accepted for testing and the processes used for testing the samples; and

(iii) track and analyze the raw data for the results of testing conducted by testing laboratories to

ensure that the testing laboratories are providing consistent and uniform results.

(6) The department may retain the services of the analytical laboratory provided by the department of agriculture pursuant to 80-1-104 for the testing contemplated in this section.

(7) If an analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the ~~state laboratory~~ department by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the ~~state laboratory~~ department may suspend the testing laboratory's license. A suspension must be based on rules adopted by the ~~state laboratory~~ department.

(9) The department shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent or misleading; or

(b) providing test results without having:

(i) the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or

(ii) the equipment required under this chapter to conduct the tests for which the laboratory is providing results.

(10) ~~A revocation under this section is subject to judicial review~~ (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for in this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (10)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision."

Section 13. Section 16-12-203, MCA, is amended to read:

"**16-12-203. Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory if the person submits to the department:

(i) the person's name, date of birth, and street address on a form prescribed by the department;

(ii) proof that the natural person having day-to-day operational control over the business is a Montana resident;

(iii) a statement, on a form prescribed by the department, that the person:

(A) will not divert to any other person the marijuana that the person cultivates or the marijuana products that the person manufactures for consumers or registered cardholders, unless the marijuana or marijuana products are sold to another licensee ~~as part of a sale of a business~~ as allowed under this section and by rules of the department; and

(B) has no pending citations for violations occurring under this chapter or the marijuana laws of any other state or jurisdiction;

(iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana products will be cultivated, manufactured, sold, or tested; and

(v) proof that the applicant has source of funding from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(A) is a person whose prior financial or other activities or criminal record:

(B) poses a threat to the public interest of the state;

(C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

(D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business.

(b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial ownership interest.

(c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the department the following:

(i) a complete and accurate organizational chart of the marijuana business disclosing the identity and ownership percentages of its controlling beneficial owners;

(ii) whether the applicant has ever filed for bankruptcy;

(iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

(iv) any financial interests held by the applicant in another marijuana business in any state;

(v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

(viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana business; and

(ix) any financial interest holder that holds two or more financial interests in the marijuana business or that is contributing over 50% of the operating capital of the marijuana business.

(d) The department may request that the marijuana business disclose each beneficial owner and affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded corporation.

(e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(g) This section does not restrict the department's ability to reasonably request information or records at renewal or as part of any other investigation following initial licensure of a marijuana business.

(h) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(2) The department may not license a person under this chapter if the person or an owner, including a person with a financial interest:

(a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under ~~16-12-524~~ 16-12-302 or of making a fraudulent representation under the former medical marijuana program administered by the department of public health and human services;

(d) is under 21 years of age;

(e) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;

(iii) stay out of default on a government-issued student loan;

(iv) pay child support; or

(v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a

government agency;

(f) has had a license issued under this chapter or a former medical marijuana license revoked within 3 years of the date of the application; or

(g) has resided in Montana for less than 1 year.

(3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless federal law otherwise allows for the interstate distribution of marijuana.

(4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or adult-use dispensary shall:

(a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to this chapter and administrative rules;

(b) allow the department to collect samples of marijuana or marijuana products during inspections of licensed premises for testing as provided by the department by rule; and

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 16-12-105.

(5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana products for use by consumers or registered cardholders only at one of the following locations:

(i) a property that is owned by the licensee; or

(ii) with written permission of the property owner filed with the department when applying for or renewing a license, a property that is rented or leased by the licensee.

(b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products or marijuana concentrate may be shared with or rented or leased to another licensee.

(c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises.

(6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this chapter and rules adopted by the department:

(a) may operate adult-use dispensaries;

(b) may engage in manufacturing; and

(c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

(7) A cultivator or manufacturer:

(a) may contract or otherwise arrange for another party that is licensed to process a cultivator's or manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or manufacturer for sale; and

(b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the required license and before the department has completed the inspection required under this chapter unless permitted to do so pursuant to 16-12-207."

Section 14. Section 16-12-206, MCA, is amended to read:

"**16-12-206. Testing laboratories -- licensing inspections.** (1) A testing laboratory may:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products; and

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested.

(2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. A scientific director must have the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

(3) All owners and employees of a testing laboratory shall submit fingerprints to the department to facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.

(4) To qualify for licensure, a testing laboratory shall demonstrate that:

(a) staff members are proficient in operation of the laboratory equipment; and

(b) the laboratory:

(i) maintains the equipment and instrumentation required by rule;

(ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance testing requirements established by rule, including the ability to certify results at the required level of sensitivity;

(iii) meets insurance and bonding requirements established by rule;

(iv) has the capacity and ability to serve rural areas of the state; and

(v) has passed a proficiency program approved by the ~~state laboratory~~ department that demonstrates it is able to meet all testing requirements.

(5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of:

(a) samples of marijuana and marijuana products submitted by cultivators and manufacturers pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;

(b) samples of marijuana or marijuana products collected by the department during inspections of licensed premises; and

(c) samples submitted by consumers or registered cardholders."

Section 15. Section 16-12-207, MCA, is amended to read:

"**16-12-207. Licensing as privilege -- criteria.** (1) A cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, combined-use marijuana license, marijuana transporter license, or any other license authorized under this chapter is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed licensed premises, including but not limited to cultivation centers, dispensaries, and manufacturing facilities.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary license, ~~or~~ medical marijuana license, or testing laboratory license if the applicant's proposed licensed premises:

(i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the department;

(ii) is not approved by local building, health, or fire officials as provided for in this chapter; or

(iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school, unless the locality requires a greater distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was established before the church, synagogue, or other place of worship or school or postsecondary school existed on the same street.

(b) For the purposes of this subsection (3), "school" and "postsecondary school" have the meanings provided in 20-5-402.

(4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder in a vehicle that is parked immediately outside the subject dispensary.

(5) A marijuana business may not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises.

(6) A marijuana business may not utilize the United States postal service or an alternative carrier other than a licensed marijuana transporter to transport, distribute, ship, or otherwise deliver marijuana or marijuana products.

(7) A marijuana business may not provide free marijuana or marijuana products or offer samples of marijuana or marijuana products.

(8) Marijuana or a marijuana product may not be given as a prize, premium, or consideration for a lottery, contest, game of chance, game of skill, or competition of any kind.

(9) (a) Except as provided in subsection (9)(c), an adult-use dispensary or medical marijuana dispensary must have a single, secured entrance for patrons and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance in accordance with department rule.

(b) Except as provided in subsection (9)(c), a marijuana business that is not an adult-use

dispensary or medical marijuana dispensary ~~must~~ shall implement security measures in accordance with department rule to deter and prevent the theft of marijuana and unauthorized entrance.

(c) The provisions of this subsection (9) do not supersede any state or local requirements relating to minimum numbers of points of entry or exit or any state or local requirements relating to fire safety.

(10) Each marijuana business shall install a video monitoring system that must, at a minimum:

(a) allow for the transmission and storage, by digital means, of a video feed that displays the interior and exterior of the cannabis establishment; and

(b) be capable of being recorded as prescribed by the department.

(11) An adult-use dispensary or medical marijuana dispensary may not operate between the hours of 8 p.m. and 9 a.m. daily.

(12) A person under 21 years of age is not permitted inside a marijuana business unless the person is an employee of the marijuana business or a registered cardholder."

Section 16. Section 16-12-208, MCA, is amended to read:

"**16-12-208. Restrictions.** (1) A cultivator or manufacturer may not cultivate marijuana or manufacture marijuana products in a manner that is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids.

(2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location other than the licensed premises approved by the department and within an enclosed area that is secured in a manner that prevents access by unauthorized persons.

(3) A licensee shall make the licensed premises, books, and records available to the department for inspection and audit under 16-12-210 during normal business hours.

(4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee.

(5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

(6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-resistant exit packaging that complies with federal child resistance standards and is designed to be significantly

difficult for children under 5 years of age to open and not difficult for adults to use properly.

(b) (i) Packaging of individual products may contain only the following design elements and language on a white label:

(A) the seller's business name and any accompanying logo or design mark;

(B) the name of the product; and

(C) the THC content or CBD content, health warning messages as provided in 16-12-215, and ingredients.

(ii) All packaging and outward labeling, including business logos and design marks, must also comply with any standards or criteria established by the department, including but not limited to allowable symbols and imagery.

(7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer hemp flower, hemp plants, or alcohol from a licensed premises.

(8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for ultimate sale to a consumer or registered cardholder, a licensee or license applicant shall submit both a package and a label application, in a form prescribed by the department, to receive approval from the department.

(b) The initial submission must be made electronically if required by the department. The licensee or license applicant shall submit a physical prototype upon request by the department.

(c) If a license applicant submits packages and labels for preapproval, final determination for packages and labels may not be made until the applicant has been issued a license.

(d) A packaging and label application must include:

(i) a fee provided for in rule by the department;

(ii) documentation that all exit packaging has been certified as child-resistant by a federally qualified third-party child-resistant package testing firm;

(iii) a picture or rendering of and description of the item to be placed in each package; and

(iv) for label applications for inhalable marijuana products that contain nonmarijuana additives:

(A) the nonmarijuana additive's list of ingredients; and

(B) in a form and manner prescribed by the department, information regarding the additive or

additives and the manufacturer of the additive or additives.

(9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified receptacle into which marijuana or marijuana products already within a container are placed at the retail point of sale."

Section 17. Section 16-12-209, MCA, is amended to read:

"**16-12-209. Testing of marijuana and marijuana products.** (1) A cultivator, manufacturer, adult-use dispensary, or medical marijuana dispensary may not sell marijuana or marijuana products until the marijuana or marijuana products have been tested by a testing laboratory and meet the requirements of this section. The licensee shall pay for the testing.

(2) A licensee shall submit material that has been collected in accordance with a sampling protocol established by the ~~state laboratory~~ department by rule. The protocol must address the division of marijuana and marijuana products into batch sizes for testing.

(3) The ~~state laboratory~~ department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

(a) the potency of the cannabinoids present; and

(b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The ~~state laboratory~~ department shall establish by rule the acceptable levels of moisture, pesticides, residual solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana products may contain.

(6) The testing laboratory shall:

(a) issue a certificate of analysis certifying the test results; and

(b) report the results to the seed-to-sale tracking system established pursuant to 16-12-105.

(7) A licensee may request that material that has failed to pass the required tests be retested in accordance with the rules adopted by the ~~state laboratory~~ department providing for retesting parameters and

requirements.

(8) Marijuana or a marijuana product must include a label indicating that the marijuana or marijuana product has been tested.

(9) (a) The department shall collect and, except as provided in subsection (9)(b), destroy samples of marijuana and marijuana products that fail to meet the acceptable levels to ensure product safety and consumer protection.

(b) If a sample fails due to THC levels in excess of the allowable limit and is not deficient in any other respect, the department may dispose of the sample by means other than destruction in accordance with rule.

(c) The department may contract for the duties under this subsection (9)."

Section 18. Section 16-12-210, MCA, is amended to read:

"**16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees.** (1) (a) The department shall conduct unannounced inspections of licensed premises.

(b) The department may not conduct more than two unannounced inspections of a licensed premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or there is other just and reasonable cause.

(2) (a) The department shall inspect annually each premises operated by a licensee.

(b) The department may collect samples during the inspection of a licensed premises and submit the samples to a testing laboratory ~~or the state laboratory~~ or the analytical laboratory authorized by 80-1-104 for testing as provided by the department by rule.

(3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with consumers and registered cardholders. The records must be open for inspection by the department ~~or state laboratory, as appropriate,~~ and state or local law enforcement agencies.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with a licensee; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana products.

(c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies.

(d) The department may require a licensee to furnish information that the department considers necessary for the proper administration of this chapter.

(4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of a licensed premises consists of a locked area, the licensee shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.

(5) The department may not hire or contract with a person to be an inspector if the person, during the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former medical marijuana licensee.

(6) In addition to any other penalties provided under this chapter, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

(c) noncompliance with any provision of this chapter.

(7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances.

(8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance,

rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this chapter.

(10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under 16-12-110."

Section 19. Section 16-12-222, MCA, is amended to read:

"**16-12-222. Licensing of marijuana transporters.** (1) (a) A marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of marijuana and marijuana products. A marijuana transporter license is valid for 2 years. A licensed marijuana transporter is responsible for the marijuana and marijuana products ~~once~~ after it takes control of the marijuana or marijuana product.

(b) A marijuana transporter may contract with multiple licensed marijuana businesses.

(c) ~~On or after March 1, 2022, and except~~ Except as otherwise provided in this section, all persons who transport marijuana or marijuana products ~~shall~~ must hold a valid marijuana transporter license. ~~The department shall begin accepting applications on or after January 1, 2022. The department may allow for a reasonable grace period for complying with this requirement.~~

(d) The department shall establish by rule the requirements for licensure and the applicable fee for a marijuana transporter license or the renewal of a transporter license. The department may not license a person to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license under 16-12-203(2).

(2) A person who is not licensed under this chapter ~~must~~ shall apply for and obtain a marijuana

transporter license in order to transport marijuana or marijuana products.

(3) A registered cardholder or consumer is not required to possess a marijuana transporter license when purchasing marijuana or marijuana products at a dispensary.

(4) A person who obtains a cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, or testing laboratory license or is an employee of one of those licensees, may:

(a) transport marijuana or marijuana products between other licensed premises without a transporter license so long as the transportation:

(i) complies with rules implementing the seed-to-sale tracking system set forth in 16-12-105; and

(ii) includes a printed manifest containing information as required by the department; and

(b) deliver marijuana from a dispensary to a registered cardholder provided that the person delivering the marijuana or marijuana products:

(i) complies with rules adopted by the department; and

(ii) includes a printed delivery manifest from a dispensary to a registered cardholder containing the registered cardholder's address and cardholder number and the dispensary's address and license number.

(5) (a) A marijuana transporter licensee may maintain a licensed premises to temporarily store marijuana and marijuana products and to use as a centralized distribution point in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(b) The licensed premises must be located in a jurisdiction that permits the operation of a marijuana business and comply with rules adopted by the department.

(c) A marijuana transporter may store and distribute marijuana and marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a license under this chapter.

(6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products throughout the state.

(7) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or

registered cardholders only and may not make deliveries of marijuana or marijuana products to individual consumers.

(8) A person delivering marijuana or marijuana products for a marijuana transporter must possess a valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana transporter licensee."

Section 20. Section 16-12-223, MCA, is amended to read:

"**16-12-223. Licensing of cultivators.** (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility.

(b) Except as provided in subsection (6), the system ~~shall~~ must include, at a minimum, the following license types:

(i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities.

(vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities.

(vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor cultivation facilities.

(viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor cultivation facilities.

(ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor cultivation facilities.

(x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor cultivation facilities.

(xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor cultivation facilities.

(xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor cultivation facilities.

(xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor cultivation facilities.

(c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(d) When evaluating an initial or renewal license application, the department shall evaluate each proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

(e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application by demonstrating that:

(A) the cultivator is using the full amount of canopy currently authorized;

(B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

(C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by

only one tier at a time.

(iii) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, a cultivator may, at any time, increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B).

(iv) The department shall conduct an inspection of the cultivator's registered premises and proposed premises within 30 days of receiving the application and before approving the application.

(f) A marijuana business that has not been issued a license before ~~July 1, 2023~~ July 1, 2025, must be initially licensed at a tier 2 canopy license or lower.

(2) The department is authorized to create additional tiers as necessary.

(3) The department may adopt rules:

(a) for inspection of proposed indoor cultivation facilities under subsection (1);

(b) for investigating owners or applicants for a determination of financial interest; and

(c) in consultation with the department of agriculture and based on well-supported science, to require licensees to adopt practices consistent with the prevention, introduction, and spread of insects, diseases, and other plant pests into Montana.

(4) Initial licensure and annual fees for these licensees are:

(a) $1,000 for a cultivator with a micro tier canopy license;

(b) $2,500 for a cultivator with a tier 1 canopy license;

(c) $5,000 for a cultivator with a tier 2 canopy license;

(d) $7,500 for a cultivator with a tier 3 canopy license;

(e) $10,000 for a cultivator with a tier 4 canopy license;

(f) $13,000 for a cultivator with a tier 5 canopy license;

(g) $15,000 for a cultivator with a tier 6 canopy license;

(h) $17,500 for a cultivator with a tier 7 canopy license;

(i) $20,000 for a cultivator with a tier 8 canopy license;

(j) $23,000 for a cultivator with a tier 9 canopy license;

(k) $27,000 for a cultivator with a tier 10 canopy license;

(l) $32,000 for a cultivator with a tier 11 canopy license; and

(m) $37,000 for a cultivator with a tier 12 canopy license.

(5) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

(6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation."

Section 21. Section 16-12-225, MCA, is amended to read:

"**16-12-225. Combined-use marijuana licensing -- requirements.** (1) The department may issue a total of eight combined-use marijuana licenses to entities that are:

(a) a federally recognized tribe located in the state; or

(b) a business entity that is majority-owned by a federally recognized tribe located in the state.

(2) A combined-use marijuana license consists of one ~~tier 1~~ canopy license and one dispensary license allowing for the operation of a dispensary. ~~Cultivation and dispensary facilities must be located at the same licensed premises.~~

(3) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on land that is located~~:~~

~~(a) within 150 air-miles of the exterior boundary of the associated tribal reservation or, for the Little Shell Chippewa tribe only, within 150 air-miles of the tribal service area; and~~

~~(b)~~ in a county that has satisfied the local government approval provisions in 16-12-301 if the majority of voters in the county voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(4) An applicant under this section must satisfy all licensing requirements under this chapter and is subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products provided for in this chapter.

(5) A license granted under this section must be operated in compliance with all requirements imposed under this chapter.

(6) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe or another majority-owned business of that tribe may not obtain another combined-use license until the prior

license is relinquished, lapses, or is revoked by the department."

Section 22. Section 16-12-226, MCA, is amended to read:

"**16-12-226. Marijuana worker permit -- requirements.** (1) A marijuana worker permit is required for an employee who performs work for or on behalf of a marijuana business if the individual participates in any aspect of the marijuana business.

(2) ~~(a) Except as provided in subsection (2)(b), a~~ A marijuana business may not allow an employee to perform any work at the licensed premises until it has verified that the employee has obtained a valid marijuana worker permit issued in accordance with this chapter.

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall obtain a marijuana worker permit within 90 days of January 1, 2022.~~

(3) An applicant for a marijuana worker permit shall submit:

(a) an application on a form prescribed by the department with information including the applicant's:

(i) name;

(ii) mailing address;

(iii) date of birth;

(iv) signature; and

(v) response to conviction history questions requested by the department;

(b) a copy of a driver's license or identification card issued by one of the fifty states in the United States or a passport;

(c) annual proof of having passed training that includes identification, prevention, and reporting for human trafficking, rules and regulations for legal sales of marijuana in Montana, and any other training required by the department; and

(d) a fee established by the department.

(4) (a) Except as provided in subsection (4)(b), an application that does not contain the elements set forth in subsection (3) is incomplete.

(b) The department may review an application prior to receiving the fee but may not issue a permit

until the fee is received.

(5) The department shall deny an initial or renewal application if the applicant:

(a) is not 18 years of age or older;

(b) has had a marijuana license or worker permit revoked for a violation of this chapter or any rule adopted under this chapter within 2 years of the date of the application;

(c) has violated any provision of this chapter; or

(d) makes a false statement to the department.

(6) An employee of a licensee shall carry the employee's worker permit at all times when performing work on behalf of a marijuana business.

(7) A person who holds a marijuana worker permit ~~must~~ shall notify the ~~department~~ person's employer in writing within 10 days of:

(a) a conviction for a felony;

(b) the issuance of any citation for violating a marijuana law imposed under this chapter or the marijuana laws of any other state; or

(c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor."

Section 23. Section 16-12-301, MCA, is amended to read:

"**16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until:

(i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection (3) or (4); and

(ii) the business is licensed by the department pursuant to this chapter.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through

(6).

(c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with ~~the department of public health and human services and~~ the department.

(d) For the purpose of this section, the marijuana business categories that must be approved by a local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may operate are:

(i) cultivator;

(ii) manufacturer;

(iii) medical marijuana dispensary, except as provided in subsection (1)(b);

(iv) adult-use dispensary;

(v) combined-use marijuana licensee;

(vi) testing laboratory; and

(vii) marijuana transporter facility.

(e) Marijuana businesses located in counties in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government approval process under subsections (3) through (6).

(2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary is exempt from complying with any local governmental regulations that are adopted under this

subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the expiration of any grace period granted by the locality, whichever is later.

(3) An election regarding whether to approve any or all of the marijuana business categories listed in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137 by:

(a) the qualified electors of a county; or

(b) the qualified electors of a municipality.

(4) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed in accordance with Title 13, chapter 1, part 4.

(b) An election pursuant to this section may be held in conjunction with a regular election of the governing body, general election, or a regular local or special election.

(5) If the qualified electors of a county vote to approve a type of marijuana business to be located in the jurisdiction, the governing body shall enter the approval into the records of the local government and notify the department of the election results.

(6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census:

(i) it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana business from being located in the municipality; and

(ii) the county shall conduct the election in a manner that separates the votes in the municipality from those in the remaining parts of the county.

(b) If a majority of the qualified electors in the county, including the qualified electors in the municipality, vote to approve a category of marijuana business to be located in the county, the county may allow that category of marijuana business to operate in the county.

(c) (i) If a majority of the qualified electors in the municipality vote to approve a category of marijuana business to be located in the municipality, the municipality may allow that type of marijuana business to operate in the municipality.

(ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana

business from being located in the municipality, the municipality may not allow that type of marijuana business to operate in the municipality.

(d) Nothing contained in this subsection (6) prevents any municipality from having a separate election under the terms of this section.

(7) (a) A county or municipality that has voted to approve a category of marijuana business to be located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations within the jurisdiction.

(b) A vote overturning the approval of a category of marijuana business or prohibiting the previously permitted operation of marijuana businesses is effective on the 90th day after the local election is held.

(8) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this chapter."

Section 24. Section 16-12-302, MCA, is amended to read:

"**16-12-302. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is:

(a) a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory, or marijuana transporter or has a marijuana worker permit is guilty of a civil fine not to exceed $1,000; or

(b) a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

(2) An individual convicted under this section may not be licensed under this chapter.

(3) A physician who purposely and knowingly misrepresents any information required under 16-12-509 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both."

Section 25. Section 16-12-310, MCA, is amended to read:

"**16-12-310. Limit on local-option marijuana excise tax rate -- goods subject to tax.** (1) The rate of the local-option marijuana excise tax must be established by the election petition or resolution provided for in 16-12-311, and the rate may not exceed 3%.

(2) The local-option marijuana excise tax is a tax on the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary within a county.

(3) If a county imposes a local-option marijuana excise tax:

(a) 50% of the resulting tax revenue must be retained by the county;

(b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio of the population of ~~the~~ each city or town to the ~~total county~~ population of municipalities within the county; and

(c) the remaining 5% of the resulting tax revenue must be retained by the department to defray costs associated with administering 16-12-309 through 16-12-312 and 16-12-317. The funds retained by the department under this subsection (3)(c) must be deposited into the marijuana state special revenue account established under 16-12-111.

(4) For the purposes of this section, "tax revenue" means the combined taxes collected under any local-option marijuana excise tax collected on retail sales within the county."

Section 26. Section 16-12-311, MCA, is amended to read:

"**16-12-311. Local government excise tax-- election required -- procedure -- notice.** (1) A county that has permitted an adult-use dispensary or medical marijuana dispensary to operate within its borders pursuant to 16-12-301 or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election, may not impose or, except as provided in this section, amend or repeal a local-option marijuana excise tax unless the local-option marijuana excise tax question has been approved by a majority of the qualified electors voting on the question.

(2) The local-option marijuana excise tax question may be presented to the qualified electors of a county by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-135, and 7-5-137 or by a resolution of the governing body of the county.

(3) The petition or resolution referring the taxing question must state:

(a) the rate of the tax, which may not exceed 3% of the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary;

(b) the date when the tax becomes effective, which may not be earlier than 90 days after the election; and

(c) the purposes that may be funded by the tax revenue.

(4) On receipt of an adequate petition, the county's governing body shall hold an election in accordance with Title 13, chapter 1, part 5.

~~(5) (a) Before the local-option marijuana excise tax question is submitted to the electorate, the county shall provide notice of the goods subject to the local-option marijuana excise tax by a method described in 13-1-108.~~

~~(b) The notice must be given two times, with at least 6 days separating the notices. The first notice must be given not more than 45 days prior to the election, and the last notice must be given not less than 30 days prior to the election.~~

~~(6)~~(5) Notice of the election must be given as provided in 13-1-108 and include the information listed in subsection (3) of this section.

~~(7)~~(6) The question of the imposition of a local-option marijuana excise tax may not be placed before the qualified electors more than once in any fiscal year."

Section 27. Section 16-12-508, MCA, is amended to read:

"**16-12-508. Individuals with debilitating medical conditions -- requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through (5), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the individual's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement, on a form prescribed by the department, that the individual will not divert to any other individual the marijuana or marijuana products that the individual cultivates, manufactures, or obtains through the system of licensed providers for the individual's debilitating medical condition;

(f) the name of the individual's treating physician or referral physician and the street address and telephone number of the physician's office;

(g) the street address where the individual is cultivating marijuana or manufacturing marijuana products if the individual is cultivating marijuana or manufacturing marijuana products for the individual's own use; and

(h) the written certification and accompanying statements from the individual's treating physician or referral physician as required pursuant to 16-12-509.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana;

(ii) indicates whether the minor's custodial parent or legal guardian will be obtaining marijuana or marijuana products for the minor through the system of licensed dispensaries provided for in this chapter; and

(iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and

(C) agrees that the minor will use only marijuana products <u>intended for use by a means other than smoking</u> and will not smoke marijuana;

(c) if the parent or guardian will be serving as the minor's cultivator, undergoes background checks

in accordance with subsection (3). The parent or legal guardian shall pay the costs of the background check and may not obtain a license under this chapter if the parent or legal guardian does not meet the requirements set forth in this chapter.

(d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana purchased for the minor's use in a marijuana product.

(3) A parent serving as a minor's cultivator shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation upon the minor's initial application for a registry identification card and every 5 years after that. The department shall conduct a name-based background check in years when a fingerprint background check is not required.

(4) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 16-12-509 from a second physician in addition to the minor's treating physician or referral physician unless the minor's treating physician or referral physician is an oncologist, neurologist, or epileptologist.

(5) An individual may not be a registered cardholder if the individual is in the custody of or under the supervision of the department of corrections or a youth court."

Section 28. Section 20-1-220, MCA, is amended to read:

"**20-1-220. Use of marijuana and tobacco products in public school building or on public school property prohibited.** (1) An individual may not use a tobacco product, vapor product, marijuana product, or alternative nicotine product in a public school building or on public school property.

(2) (a) Subsection (1) does not apply to the use of a tobacco product, vapor product, marijuana product, or alternative nicotine product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product, vapor product, marijuana product, or alternative nicotine product.

(b) Subsection (1) does not apply to the use of a smoking cessation product by an employee.

(3) The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

(4) A violation of this section is subject to the penalties provided in 50-40-115.

(5) For the purposes of this section, the following definitions apply:

(a) "Alternative nicotine product" means a manufactured noncombustible product that contains nicotine derived from tobacco and that is intended for human consumption by being chewed, absorbed, dissolved, or ingested by any other means.

(b) (i) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer.

(ii) The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, marijuana concentrates, and marijuana intended for use by smoking or vaping.

~~(b)~~(c) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

(ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses.

~~(c)~~(d) "Tobacco product" means a substance intended for human consumption that contains tobacco, including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

~~(d)~~(e) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes:

(i) an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device; and

(ii) a vapor cartridge or other container in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product and device."

NEW SECTION. **Section 29. Repealer.** The following sections of the Montana Code Annotated are repealed:

16-12-524. Fraudulent representation -- penalties.

16-12-532. Legislative monitoring.

NEW SECTION. **Section 30. Appropriation.** There is appropriated $149,285.58 from the marijuana state special revenue account provided for in 16-12-111 to the department of revenue, which comprises 2 FTE transferred from the department of public health and human services to the department of revenue.

NEW SECTION. **Section 31. Transition.** (1) The legislature directs the department of public health and human services to assist the department of revenue with the transfer of FTE, information, materials, and any other marijuana-related assets that the department of revenue considers necessary to implement the regulation of marijuana testing laboratories in the state and exercise authority over the regulation of marijuana testing laboratory licensees in the state.

(2) On July 1, 2023, the department of public health and human services shall transfer to the department of revenue the existing endorsements for any marijuana testing laboratory licensees. Existing endorsements transferred pursuant to this section must be accepted and administered by the department of revenue.

NEW SECTION. **Section 32. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

NEW SECTION. **Section 33. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2023.

(2) [Sections 3, 8, 11, 13, 20, and 21] and this section are effective on passage and approval.

(3) [Sections 12, 14, 15, 17, 18, and 23] are effective July 1, 2023.

- END -

HOUSE BILL NO. 128

INTRODUCED BY J. KASSMIER

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING REPORTS TO THE LEGISLATURE; CLARIFYING PERMISSIVE ACTS AND EXCEPTIONS FOR REGISTERED CARDHOLDERS; CLARIFYING LIMITATIONS OF THE MONTANA MARIJUANA REGULATION AND TAXATION ACT; CLARIFYING PENALTIES; REVISING PENALTIES FOR SUSPENDED LICENSES; COMBINING SECTIONS ON LEGISLATIVE MONITORING; CLARIFYING LEGISLATIVE MONITORING DUTIES; REMOVING THE IDENTITY DISCLOSURE REQUIREMENT FOR LICENSEE COMPLAINTS; REMOVING OUTDATED DATES; REMOVING THE BACKGROUND CHECK REQUIREMENT FOR CERTAIN INDIVIDUALS; EXTENDING THE MORATORIUM FOR NEW MARIJUANA LICENSES; TRANSFERRING AUTHORITY OVER MARIJUANA TESTING LABORATORIES; CLARIFYING THE MINIMUM AGE TO ENTER A MARIJUANA BUSINESS; CLARIFYING LEGISLATIVE INTENT ON A CULTIVATOR'S ABILITY TO INCREASE TIERS; REVISING REQUIREMENTS FOR A COMBINED-USE LICENSE; REVISING REPORTING REQUIREMENTS FOR EMPLOYEE CONVICTIONS OR VIOLATIONS; COMBINING SECTIONS ON FRAUDULENT REPRESENTATION; CLARIFYING THE FORMULA FOR MUNICIPAL TAX REVENUE ALLOCATION; REMOVING CONFLICTING NOTICE REQUIREMENTS; EXTENDING RULEMAKING AUTHORITY; REVISING DEFINITIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 5-11-222, 15-64-101, 16-12-102, 16-12-104, 16-12-106, 16-12-108, 16-12-109, 16-12-110, 16-12-125, 16-12-129, 16-12-201, 16-12-202, 16-12-203, 16-12-206, 16-12-207, 16-12-208, 16-12-209, 16-12-210, 16-12-222, 16-12-223, 16-12-225, 16-12-226, 16-12-301, 16-12-302, 16-12-310, 16-12-311, 16-12-508, AND 20-1-220, MCA; REPEALING SECTIONS 16-12-524 AND 16-12-532, MCA; AND PROVIDING EFFECTIVE DATES.”

WHEREAS, during the 2021-2022 interim, the Economic Affairs Interim Committee received testimony relating to the interpretation and implementation of the Montana Marijuana Regulation and Taxation Act; and

WHEREAS, specifically, the committee received testimony that section 16-12-223, MCA, allowed only

qualifying marijuana cultivator licensees to increase production tiers at the licensee's renewals and not at the licensee's discretion; and

WHEREAS, the committee disagreed with this interpretation and provided its analysis; and

WHEREAS, the issue was resolved to the committee's satisfaction; and

WHEREAS, this bill amends section 16-12-223, MCA, to remove all existing doubt whether the Legislature intended to allow a qualifying marijuana cultivator licensee to increase production tiers at their discretion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-11-222, MCA, is amended to read:

"**5-11-222. Reports to legislature.** (1) (a) Except as provided in ~~subsection~~ subsections (1)(b) and (6), a report to the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or before September 1 of each year preceding the convening of a regular session of the legislature.

(b) If otherwise specified in law, a report may be required more or less frequently than the biennial requirement in subsection (1)(a).

(2) Reports to the legislature include:

(a) annual reports on the unified investment program for public funds and public retirement systems and state compensation insurance fund assets audits from the board of investments in accordance with Article VIII, section 13, of the Montana constitution;

(b) federal mandates requirements from the governor in accordance with 2-1-407;

(c) activities of the state records committee in accordance with 2-6-1108;

(d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

(e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-410;

(f) progress on gender and racial balance from the governor in accordance with 2-15-108;

(g) a mental health report from the ombudsman in accordance with 2-15-210;

(h) policies related to children and families from the interagency coordinating council for state

prevention in accordance with 2-15-225;

(i) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

(j) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board in accordance with 2-15-3113;

(k) the allocation of space report from the department of administration required in accordance with 2-17-101;

(l) information technology activities in accordance with 2-17-512;

(m) state strategic information technology plan exceptions, if granted, from the department of administration in accordance with 2-17-515;

(n) the state strategic information technology plan and biennial report from the department of administration in accordance with 2-17-521 and 2-17-522;

(o) reports from standing, interim, and administrative committees, if prepared, in accordance with 2-17-825 and 5-5-216;

(p) statistical and other data related to business transacted by the courts from the court administrator, if requested, in accordance with 3-1-702;

(q) the judicial standards commission report in accordance with 3-1-1126;

(r) an annual report on the actual cost of legislation that had a projected fiscal impact from the office of budget and program planning in accordance with 5-4-208;

(s) a link to annual state agency reports on grants awarded in the previous fiscal year established by the legislative finance committee in accordance with 5-12-208;

(t) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in accordance with 5-12-302(4);

(u) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may impair the independence of the legislative audit division in accordance with 5-13-305;

(v) if a waste of state resources occurs, a report from the legislative state auditor, in accordance with 5-13-311;

(w) school funding commission reports each fifth interim in accordance with 5-20-301;

(x) a report of political committee operations conducted on state-owned property, if required, from

a political committee to the legislative services division in accordance with 13-37-404;

(y) a report concerning taxable value from the department of revenue in accordance with 15-1-205;

(z) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;

(aa) semiannual reports on the Montana heritage preservation and development account from the Montana heritage preservation and development commission in accordance with 15-65-121;

(bb) general marijuana regulation reports and medical marijuana registry reports from the department of revenue in accordance with 16-12-110;

~~(cc) medical marijuana registry reports from the department of revenue in accordance with 16-12-532 (3);~~

~~(dd)~~(cc) annual reports on general fund and nongeneral fund encumbrances from the department of administration in accordance with 17-1-102;

~~(ee)~~(dd) loans or loan extensions authorized for two consecutive fiscal years from the department of administration and office of commissioner of higher education, including negative cash balances from the commissioner of higher education, in accordance with 17-2-107;

~~(ff)~~(ee) a report of local government entities that have balances contrary to limitations provided for in 17-2-302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;

~~(gg)~~(ff) an annual report from the board of investments in accordance with 17-5-1650(2);

~~(hh)~~(gg) a report on retirement system trust investments and benefits from the board of investments in accordance with 17-6-230;

~~(ii)~~(hh) recommendations for reductions in spending and related analysis, if required, from the office of budget and program planning in accordance with 17-7-140;

~~(jj)~~(ii) a statewide facility inventory and condition assessment from the department of administration in accordance with 17-7-202;

~~(kk)~~(jj) actuary reports and investigations for public retirement systems from the public employees' retirement board in accordance with 19-2-405;

~~(ll)~~(kk) a work report from the public employees' retirement board in accordance with 19-2-

407;

~~(mm)~~(ll) annual actuarial reports and evaluations from the teachers' retirement board in accordance with 19-20-201;

~~(nn)~~(mm) reports from the state director of K-12 career and vocational and technical education, as requested, in accordance with 20-7-308;

~~(oo)~~(nn) 5-year state plan for career and technical education reports from the board of regents in accordance with 20-7-330;

~~(pp)~~(oo) a gifted and talented students report from the office of public instruction in accordance with 20-7-904;

~~(qq)~~(pp) status changes for at-risk students from the office of public instruction in accordance with 20-9-328;

~~(rr)~~(qq) status changes for American Indian students from the office of public instruction in accordance with 20-9-330;

~~(ss)~~(rr) reports regarding the Montana Indian language preservation program from the office of public instruction in accordance with 20-9-537;

~~(tt)~~(ss) proposals for funding community colleges from the board of regents in accordance with 20-15-309;

~~(uu)~~(tt) expenditures and activities of the Montana agricultural experiment station and extension service, as requested, in accordance with 20-25-236;

~~(vv)~~(uu) reports, if requested by the legislature, from the president of each of the units of the higher education system in accordance with 20-25-305;

~~(ww)~~(vv) reports, if prepared by a public postsecondary institution, regarding free expression activities on campus in accordance with 20-25-1506;

~~(xx)~~(ww) reports from the Montana historical society trustees in accordance with 22-3-107;

~~(yy)~~(xx) state lottery reports in accordance with 23-7-202;

~~(zz)~~(yy) a report from the division of banking and financial institutions, if required, from the department of administration in accordance with 32-11-306;

~~(aaa)~~(zz) state fund reports, if required, from the commissioner in accordance with 33-1-115;

~~(bbb)~~(aaa) reports from the department of labor and industry in accordance with 39-6-101;

~~(ccc)~~(bbb) victim unemployment benefits reports from the department of labor and industry in accordance with 39-51-2111;

~~(ddd)~~(ccc) state fund business reports in accordance with 39-71-2363;

~~(eee)~~(ddd) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;

~~(fff)~~(eee) child custody reports from the office of the court administrator in accordance with 41-3-1004;

~~(ggg)~~(fff) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the governor in accordance with 46-23-316;

~~(hhh)~~(ggg) annual statewide public defender reports from the office of state public defender in accordance with 47-1-125;

~~(iii)~~(hhh) a trauma care system report from the department of public health and human services in accordance with 50-6-402;

~~(jjj)~~(iii) an older Montanans trust fund report from the department of public health and human services in accordance with 52-3-115;

~~(kkk)~~(jjj) Montana criminal justice oversight council reports in accordance with 53-1-216;

~~(lll)~~(kkk) medicaid block grant reports from the department of public health and human services in accordance with 53-1-611;

~~(mmm)~~(lll) reports on the approval and implementation status of medicaid section 1115 waivers in accordance with 53-2-215;

~~(nnn)~~(mmm) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

~~(ooo)~~(nnn) medicaid funding reports from the department of public health and human services in accordance with 53-6-110;

~~(ppp)~~(ooo) proposals regarding managed care for medicaid recipients, if required, from the department of public health and human services in accordance with 53-6-116;

~~(qqq)~~(ppp) suicide reduction plans from the department of public health and human services in

accordance with 53-21-1102;

~~(rrr)~~(qqq) a compliance and inspection report from the department of corrections in accordance with 53-30-604;

~~(sss)~~(rrr) emergency medical services grants from the department of transportation in accordance with 61-2-109;

~~(ttt)~~(sss) annual financial reports on the environmental contingency account from the department of environmental quality in accordance with 75-1-1101;

~~(uuu)~~(ttt) the Flathead basin commission report in accordance with 75-7-304;

~~(vvv)~~(uuu) a report from the land board, if prepared, in accordance with 76-12-109;

~~(www)~~(vvv) an annual state trust land report from the land board in accordance with 77-1-223;

~~(xxx)~~(www) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-713;

~~(yyy)~~(xxx) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

~~(zzz)~~(yyy) reports on the allocation of renewable resources grants and loans for emergencies, if required, from the department of natural resources and conservation in accordance with 85-1-605;

~~(aaaa)~~(zzz) water storage projects from the governor's office in accordance with 85-1-704;

~~(bbbb)~~(aaaa) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-338;

~~(cccc)~~(bbbb) upland game bird enhancement program reports in accordance with 87-1-250;

~~(dddd)~~(cccc) private land/public wildlife advisory committee reports in accordance with 87-1-269;

~~(eeee)~~(dddd) a future fisheries improvement program report from the department of fish, wildlife, and parks in accordance with 87-1-272;

~~(ffff)~~(eeee) license revenue recommendations from the department of fish, wildlife, and parks in accordance with 87-1-629;

~~(gggg)~~(ffff) land information data reports from the state library in accordance with 90-1-404;

~~(hhhh)~~(gggg) hydrocarbon and geology investigation reports from the bureau of mines and geology in accordance with 90-2-201;

~~(iiii)~~(hhhh) coal ash markets investigation reports from the department of commerce in accordance with 90-2-202;

~~(jjjj)~~(iiii) an annual report from the pacific northwest electric power and conservation planning council in accordance with 90-4-403;

~~(kkkk)~~(jjjj) community property-assessed capital enhancements program reports from the Montana facility finance authority in accordance with 90-4-1303;

~~(llll)~~(kkkk) veterans' home loan mortgage loan reports from the board of housing in accordance with 90-6-604;

~~(mmmm)~~(llll) matching infrastructure planning grant awards by the department of commerce in accordance with 90-6-703(3); and

~~(nnnn)~~(mmmm) treasure state endowment program reports from the department of commerce in accordance with 90-6-710;

(3) Reports to the legislature include reports made to an interim committee as follows:

(a) reports to the law and justice interim committee, including:

(i) findings of the domestic violence fatality review commission in accordance with 2-15-2017;

(ii) the report from the missing indigenous persons review commission in accordance with 2-15-2018;

(iii) reports from the department of justice and public safety officer standards and training council in accordance with 2-15-2029;

(iv) information on the Montana False Claims Act from the department of justice in accordance with 17-8-416;

(v) annual case status reports from the attorney general in accordance with 41-3-210;

(vi) office of court administrator reports in accordance with 41-5-2003;

(vii) statewide public safety communications system activities from the department of justice in accordance with 44-4-1606;

(viii) reports on the status of the crisis intervention team training program from the board of crime control in accordance with 44-7-110;

(ix) restorative justice grant program status and performance from the board of crime control in

accordance with 44-7-302;

(x) reports on offenders under supervision with new offenses or violations from the department of corrections in accordance with 46-23-1016;

(xi) supervision responses grid reports from the department of corrections in accordance with 46-23-1028;

(xii) statewide public defender reports and information from the office of state public defender in accordance with 47-1-125;

(xiii) every 5 years, a percentage change in public defender funding report from the legislative fiscal analyst in accordance with 47-1-125;

(xiv) every 5 years, statewide public defender reports on the percentage change in funding from the office of state public defender in accordance with 47-1-125; and

(xv) a report from the quality assurance unit from the department of corrections in accordance with 53-1-211;

(b) reports to the state administration and veterans' affairs interim committee, including:

(i) a report that includes information technology activities and additional information from the information technology board in accordance with 2-17-512 and 2-17-513;

(ii) a report from the capitol complex advisory council in accordance with 2-17-804;

(iii) a report on the employee incentive award program from the department of administration in accordance with 2-18-1103;

(iv) a board of veterans' affairs report in accordance with 10-2-102;

(v) a report on grants to the Montana civil air patrol from the department of military affairs in accordance with 10-3-802;

(vi) annual reports on statewide election security from the secretary of state in accordance with 13-1-205;

(vii) a report regarding the youth voting program, if requested, from the secretary of state in accordance with 13-22-108;

(viii) a report from the commissioner of political practices in accordance with 13-37-120;

(ix) a report on retirement system trust investments from the board of investments in accordance

with 17-6-230;

(x) actuarial valuations and other reports from the public employees' retirement board in accordance with 19-2-405 and 19-3-117;

(xi) actuarial valuations and other reports from the teachers' retirement board in accordance with 19-20-201 and 19-20-216;

(xii) a report on the reemployment of retired members of the teachers' retirement system from the teachers' retirement board in accordance with 19-20-732; and

(xiii) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the secretary of state in accordance with 30-9A-527;

(c) reports to the children, families, health, and human services interim committee, including:

(i) performance data from the department of public health and human services in accordance with 2-15-2225;

(ii) quarterly reports on data requirements from the department of public health and human services in accordance with 5-12-303;

(iii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(iv) Montana HELP Act workforce development reports from the department of public health and human services in accordance with 39-12-103;

(v) annual reports from the child and family ombudsman in accordance with 41-3-1211;

(vi) reports on activities and recommendations on child protective services activities, if required, from the child and family ombudsman in accordance with 41-3-1215;

(vii) reports on the out-of-state placement of high-risk children with multiagency service needs from the department of public health and human services in accordance with 52-2-311;

(viii) private alternative adolescent residential and outdoor programs reports from the department of public health and human services in accordance with 52-2-803;

(ix) an annual Montana parents as scholars program report from the department of public health and human services in accordance with 53-4-209;

(x) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(xi) a report concerning mental health managed care services, if managed care is in place, from the advisory council in accordance with 53-6-710;

(xii) quarterly medicaid reports related to expansion from the department of public health and human services in accordance with 53-6-1325;

(xiii) annual Montana developmental center reports from the department of public health and human services in accordance with 53-20-225; and

(xiv) annual children's mental health outcomes from the department of public health and human services in accordance with 53-21-508;

(xv) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(d) reports to the economic affairs interim committee, including:

(i) the annual state compensation insurance fund budget from the board of directors in accordance with 5-5-223 and 39-71-2363;

(ii) general marijuana regulation reports from the department of revenue in accordance with 16-12-110(3);

(iii) medical marijuana registry reports from the department of revenue in accordance with ~~16-12-532(3)~~ 16-12-110;

(iv) annual reports on complaints against physicians certifying medical marijuana use from the board of medical examiners in accordance with ~~16-12-532(4)~~ 16-12-110(6);

(v) an annual report on the administrative rate required from the department of commerce from the Montana heritage preservation and development commission in accordance with 22-3-1002;

(vi) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;

(vii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-71-2375;

(viii) annual reinsurance reports from the Montana reinsurance association board required in accordance with 33-22-1308;

(ix) reports from the department of labor and industry concerning board attendance in accordance with 37-1-107;

(x) annual reports on physician complaints related to medical marijuana from the board of medical examiners in accordance with 37-3-203;

(xi) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(xii) status reports on the special revenue account and fees charged as a funding source from the board of funeral service in accordance with 37-19-204;

(xiii) unemployment insurance program integrity act reports from the department of labor and industry in accordance with 39-15-706;

(xiv) status reports on the distressed wood products industry revolving loan program from the department of commerce in accordance with 90-1-503;

(e) reports to the education interim committee, including:

(i) reemployment of retired teachers, specialists, and administrators reports from the retirement board in accordance with 19-20-732;

(ii) a report on participation in the interstate compact on educational opportunity for military children in accordance with 20-1-231;

(iii) grow your own grant program reports from the commissioner of higher education in accordance with 20-4-601;

(iv) standards of accreditation proposals and economic impact statements from the board of public education in accordance with 20-7-101;

(v) advanced opportunity program reports from the board of public education in accordance with 20-7-1506;

(vi) progress on transformational learning plans from the board of public education in accordance with 20-7-1602;

(vii) budget amendments, if needed, from school districts in accordance with 20-9-161;

(viii) annual Montana resident student financial aid program reports from the commissioner of higher education in accordance with 20-26-105;

(ix) a historic preservation office report from the historic preservation officer in accordance with 22-3-423; and

(x) interdisciplinary child information agreement reports from the office of public instruction in

accordance with 52-2-211;

(f) reports to the energy and telecommunications interim committee, including:

(i) the high-performance building report from the department of administration in accordance with 17-7-214;

(ii) an annual report from the consumer counsel in accordance with 69-1-222;

(iii) annual universal system benefits reports from utilities, electric cooperatives, and the department of revenue in accordance with 69-8-402;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501; and

(v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-1301;

(g) reports to the revenue interim committee, including:

(i) use of the qualified endowment tax credit report from the department of revenue in accordance with 15-1-230;

(ii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with 15-7-111;

(iii) gray water property tax abatement usage reports from the department of revenue in accordance with 15-24-3211;

(iv) information about job growth incentive tax credits from the department of revenue in accordance with 15-30-2361;

(v) student scholarship contributions from the department of revenue in accordance with 15-30-3112;

(vi) tax havens from the department of revenue in accordance with 15-31-322;

(vii) media production tax credit economic impact reports from the department of commerce in accordance with 15-31-1011; and

~~(viii) medical marijuana registry reports from the department of revenue in accordance with 16-12-532 (5);~~

~~(ix) complaints against physicians certifying use of medical marijuana from the board of medical~~

~~examiners in accordance with 16-12-532 (5); and~~

~~(x)~~(viii) reports that actual or projected receipts will result in less revenue than estimated from the office of budget and program planning, if necessary, in accordance with 17-7-140;

(h) reports to the transportation interim committee, including:

(i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;

(ii) cooperative agreement negotiations from the department of transportation in accordance with 15-70-450;

(iii) an annual alternative project delivery contracting report from the department of transportation in accordance with 60-2-119; and

(iv) a special fuels inspection report from the department of transportation in accordance with 61-10-154;

(i) reports to the environmental quality council, including:

(i) compliance and enforcement reports required in accordance with 75-1-314;

(ii) the state solid waste management and resource recovery plan, every 5 years, from the department of environmental quality in accordance with 75-10-111;

(iii) annual orphan share reports from the department of environmental quality in accordance with 75-10-743;

(iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;

(v) annual subdivision sanitation reports from the department of environmental quality in accordance with 76-4-116;

(vi) state trust land accessibility reports from the department of natural resources and conservation in accordance with 77-1-820;

(vii) biennial land banking reports and annual state land cabin and home site sales reports from the department of natural resources and conservation in accordance with 77-2-366;

(viii) biennially invasive species reports from the departments of fish, wildlife, and parks and natural resources and conservation in accordance with 80-7-1006;

(ix) annual upper Columbia conservation commission reports in accordance with 80-7-1026;

(x) annual invasive species council reports in accordance with 80-7-1203;

(xi) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;

(xii) annual sage grouse population reports from the department of fish, wildlife, and parks in accordance with 87-1-201;

(xiii) annual gray wolf management reports from the department of fish, wildlife, and parks in accordance with 87-1-901;

(xiv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in accordance with 87-2-702;

(xv) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in accordance with 87-5-807; and

(xvi) annual sage grouse oversight team activities and staffing reports in accordance with 87-5-918;

(j) reports to the water policy interim committee, including:

(i) drought and water supply advisory committee reports in accordance with 2-15-3308;

(ii) total maximum daily load reports from the department of environmental quality in accordance with 75-5-703;

(iii) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501;

(v) renewable resource grant and loan program reports from the department of natural resources and conservation in accordance with 85-1-621;

(vi) quarterly adjudication reports from the department of natural resources and conservation and the water court in accordance with 85-2-281;

(vii) water reservation reports from the department of natural resources and conservation in accordance with 85-2-316;

(viii) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-436; and

(ix) ground water investigation program reports from the bureau of mines and geology in accordance with 85-2-525;

(k) reports to the local government interim committee, including:

(i) sand and gravel, if an investigation is completed, in accordance with 82-2-701;

(ii) assistance to local governments on federal land management proposals from the department of commerce in accordance with 90-1-182; and

(iii) emergency financial assistance to local government reports from the department of commerce, if requests are made, in accordance with 90-6-703(2);

(l) reports to the state-tribal relations committee, including:

(i) reports from the missing indigenous persons review commission in accordance with 2-15-2018;

(ii) the Montana Indian language preservation program report from the state-tribal economic development commission in accordance with 20-9-537;

(iii) reports from the missing indigenous persons task force in accordance with 44-2-411

(iv) a decennial economic contributions and impacts of Indian reservations report from the department of commerce in accordance with 90-1-105;

(v) state-tribal economic development commission activities reports from the state-tribal economic development commission in accordance with 90-1-132; and

(vi) state-tribal economic development commission reports provided regularly by the state director of Indian affairs in accordance with 90-11-102.

(4) (a) Except as provided in subsections (4)(b) and (6) and unless otherwise required by law, a report made to the legislature in accordance with subsection (3) may be provided orally before September 1 of each year preceding the convening of a regular session of the legislature and in accordance with 5-11-210(1)(b).

(b) After receiving an oral report, an interim or administrative committee responsible for receiving the report may request a written report be filed with the legislature in accordance with 5-11-210(1)(a).

(c) This section may not be interpreted to preclude an interim or administrative committee from requesting additional information.

(5) Reports to the legislature include multistate compact and agreement reports including:

(a) multistate tax compact reports in accordance with 15-1-601;

(b) interstate compact on educational opportunity for military children reports in accordance with

20-1-230 and 20-1-231;

(c) compact for education reports in accordance with 20-2-501;

(d) Western regional higher education compact reports in accordance with 20-25-801;

(e) interstate insurance product regulation compact reports in accordance with 33-39-101;

(f) interstate medical licensure compact reports in accordance with 37-3-356;

(g) interstate compact on juveniles reports in accordance with 41-6-101;

(h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

(i) vehicle equipment safety compact reports in accordance with 61-2-201;

(j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

(k) western interstate nuclear compact reports in accordance with 90-5-201.

(6) Reports, transfers, statements, assessments, recommendations and changes required under 17-7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 20-7-101, 23-7-202, 33-1-115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports required in subsections (2)(a), ~~(2)(gg)~~ (2)(ff), ~~(2)(hh)~~ (2)(gg), and (3)(b)(ix) must be provided following issuance of reports issued under Title 5, chapter 13."

Section 2. Section 15-64-101, MCA, is amended to read:

"**15-64-101. Definitions.** As used in this part, the following definitions apply:

(1) "Adult-use dispensary" has the meaning provided in 16-12-102.

(2) "Customer" means a person to whom a sale of marijuana or a marijuana product is made.

~~(2)~~(3) "Department" means the department of revenue provided for in 2-15-1301.

~~(3)~~(4) "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.

~~(4)~~(5) "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana dispensary.

~~(5)~~(6) "Marijuana" has the meaning provided in 16-12-102.

~~(6)~~(7) "Marijuana product" has the meaning provided in 16-12-102.

~~(7)~~(8) "Medical marijuana dispensary" has the meaning provided in 16-12-102.

~~(8)~~(9) "Person" means an individual, firm, partnership, corporation, association, company, committee,

other group of persons, or other business entity, however formed.

~~(9) "Purchaser" means a person to whom a sale of marijuana or a marijuana product is made.~~

(10) "Retail price" means the established price for which an adult-use dispensary or medical marijuana dispensary sells marijuana or a marijuana product to a purchaser before any discount or reduction.

(11) "Sale" or "sell" means any transfer of marijuana or marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means."

Section 3. Section 16-12-102, MCA, is amended to read:

"**16-12-102. Definitions.** As used in this chapter, the following definitions apply:

(1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may:

(a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and

(b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.

(3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

(4) "Canopy" means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.

(6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

(7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

(a) is a natural person, an entity that is organized under the laws of and for which its principal

place of business is located in one of the states or territories of the United States or District of Columbia, or a publicly traded corporation, and:

(i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;

(ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or

(iii) is otherwise in a position to control the marijuana business; or

(b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.

(8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction.

(9) "Cultivator" means a person licensed by the department to:

(a) plant, cultivate, grow, harvest, and dry marijuana; and

(b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(10) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder.

(11) "Department" means the department of revenue provided for in 2-15-1301.

(12) (a) "Employee" means an individual employed to do something for the benefit of an employer.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net profits or net worth of the entity in which the interest is held.

(b) The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance but does include holders of private loans or convertible securities.

(14) "Former medical marijuana licensee" means a person that was licensed by or had an application for licensure pending with the department of public health and human services to provide marijuana to individuals with debilitating medical conditions on ~~November 3, 2020~~ April 27, 2021.

(15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight.

(b) The term may include:

(i) a greenhouse;

(ii) a hoop house; or

(iii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

(16) "Licensed premises" means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

(17) "Licensee" means a person holding a state license issued pursuant to this chapter.

(18) "Local government" means a county, a consolidated government, or an incorporated city or town.

(19) "Manufacturer" means a person licensed by the department to convert or compound marijuana

into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or relabel marijuana products as allowed under this chapter.

(20) (a) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(b) The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(c) The term does not include a drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department under this chapter.

(22) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products.

(24) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer ~~by a means other than smoking~~. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates, including concentrates intended for use by smoking or vaping.

(25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

(26) "Mature marijuana plant" means a harvestable marijuana plant.

(27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a cardholder who is registered under Title 16, chapter 12, part 5.

(28) "Medical marijuana dispensary" means the location from which a registered cardholder may obtain marijuana or marijuana products.

(29) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.

(30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

(31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

(32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana business that is not otherwise a controlling beneficial owner or in control.

(33) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(34) "Qualified institutional investor" means:

(a) a bank or banking institution including any bank, trust company, member bank of the federal reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and doing business under the laws of this state, any other state, or the laws of the United States;

(b) a bank holding company as defined in 32-1-109;

(c) a company organized as an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to regulation or oversight by the insurance department of the office of the state auditor or a similar agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their capacity as such an insurance company;

(d) an investment company registered under section 8 of the federal Investment Company Act of 1940, as amended;

(e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income

Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

(f) a state or federal government pension plan; or

(g) any other entity identified by rule by the department.

(35) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(36) "Registry identification card" means a document issued by the department pursuant to 16-12-503 that identifies an individual as a registered cardholder.

(37) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this chapter if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(38) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(39) "State laboratory" means the laboratory operated by the department of public health and human services to conduct environmental analyses.~~

~~(40)~~(39) "Testing laboratory" means a qualified person, licensed under this chapter that:

(a) provides testing of representative samples of marijuana and marijuana products; and

(b) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

~~(41)~~(40) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual.

(b) The term does not include the seeds, stalks, and roots of the plant. (Subsection (15)(b)(ii) terminates October 1, 2023--sec. 117(1), Ch. 576, L. 2021.)"

Section 4. Section 16-12-104, MCA, is amended to read:

"**16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

(2) (a) The department shall issue the following license types to persons who submit applications meeting the requirements of this chapter:

(i) cultivator license;

(ii) manufacturer license;

(iii) adult-use dispensary license or a medical marijuana dispensary license;

(iv) testing laboratory license.

(v) marijuana transporter license.

(vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

(3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

(4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

(5) The department shall assess applications for licensure or renewal to determine if an applicant, controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria established in this chapter for denial of a license.

(6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in rule by the department.

(7) (a) The department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

(i) within 60 days of receiving the application or renewal and all related application materials from a former medical marijuana licensee or an existing licensee under this chapter; and

(ii) within 120 days of receiving the application and all related application materials from a new applicant.

(b) If the department fails to act on a completed application within the time allowed under subsection (7)(a), the department shall:

(i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(ii) allow a licensee to continue operation until the department takes final action.

(c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.

(d) The department shall issue a license or endorsement within 5 days of approving an application or renewal.

(8) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) Licenses issued under this chapter must be renewed annually.

(10) (a) The department shall provide the names and phone numbers of persons, including the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (10)(b), the department may not disclose the physical location or address of a marijuana business.

(b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal.

(c) The name of a controlling beneficial owner is not considered confidential information as defined in 2-6-1002.

(11) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee operating in compliance with the requirements of this chapter from operating at a shared location with a medical

marijuana dispensary.

(12) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than government-issued identification to determine the consumer's age. A licensee that scans a person's driver's license using an electronic reader to determine the person's age:

(a) may only use data or metadata from the scan determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department.

(13) (a) Except as provided in subsection (13)(b), licenses issued by the department under this chapter are nontransferable.

(b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business.

(14) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner unless the licensee notifies, in writing, the department of the proposed transaction and the department determines that the person qualifies for ownership under the provisions of this chapter."

Section 5. Section 16-12-106, MCA, is amended to read:

"**16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government for a person who is 21 years of age or older or a registered cardholder:

(a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or older or a registered cardholder, 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(c) in or on the grounds of a private residence, possessing, planting, or cultivating up to two mature marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered cardholder, and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:

(i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place;

(ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be cultivated in or on the grounds of a single private residence simultaneously;

(iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and

(iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana products for personal use may be shared with, rented, or leased to a marijuana business;

(d) assisting another person who is at least 21 years of age or a registered cardholder, in any of the acts permitted by this section, including allowing another person to use one's personal residence for any of the acts described in this section; and

(e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia relating to marijuana.

(2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for that

activity by the department, is subject to a civil fine not exceeding $50.

(5) For a person who is under 21 years of age and is not a registered cardholder, possession, use, delivery without consideration, or distribution without consideration of marijuana is punishable in accordance with 45-5-624.

(6) For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and 8 hours of drug education or counseling.

(7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

(a) for a first violation, the person's choice between a civil fine not exceeding $200 or completing up to 4 hours of community service in lieu of the fine;

(b) for a second violation, the person's choice between a civil fine not exceeding $300 or completing up to 6 hours of community service in lieu of the fine; and

(c) for a third or subsequent violation, the person's choice between a civil fine not exceeding $500 or completing up to 8 hours of community service in lieu of the fine.

(8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this chapter.

(9) A person may not be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by this chapter."

Section 6. Section 16-12-108, MCA, is amended to read:

"**16-12-108. Limitations of act.** (1) This chapter does not permit:

(a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana products;

(b) consumption of marijuana or marijuana products while operating or being in physical control of

a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(c) smoking or consuming marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(d) delivery or distribution of marijuana or marijuana products, with or without consideration, to a person under 21 years of age, unless the person is a registered cardholder;

(e) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of age, unless the person is a registered cardholder;

(f) possession or transport of marijuana or marijuana products by a person under 21 years of age unless the underage person is a registered cardholder or is at least 18 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work activities;

(g) possession or consumption of marijuana or marijuana products or possession of marijuana paraphernalia:

(i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in 20-5-402;

(ii) in a school bus ~~or other form of public transportation~~;

(iii) in a health care facility as defined in 50-5-101; or

(iv) on the grounds of any correctional facility; ~~or~~

~~(v) in a hotel or motel room;~~

(h) using marijuana or marijuana products in a location where smoking tobacco is prohibited;

(i) smoking marijuana in a hotel or motel room, except for a hotel or motel room that is designated as a smoking room and rented to a guest;

~~(i)~~(j) consumption of marijuana or marijuana products:

(i) in a public place, except as allowed by the department; or

(ii) on trains, buses, or other forms of public transportation.

~~(j)~~(k) conduct that endangers others;

~~(k)~~(l) undertaking any task while under the influence of marijuana or marijuana products if doing so would constitute negligence or professional malpractice; or

~~(l)~~(m) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

(2) (a) A violation of subsections (1)(g)(i) through (1)(g)(iii) and (1)(h) through (1)(j) is subject to the penalties provided for in 50-40-115.

(b) In addition to the penalties provided for in 50-40-115, a person in violation of subsection (1)(g)(iv) may be subject to administrative action by the department of corrections and the department of justice, and a violation of subsection (1)(g)(iv) may be subject to the penalties provided for in 45-7-307.

(c) A violation of subsection (1)(m) is subject to the penalties provided for in 45-9-110(3).

~~(2)~~(3) A person may not cultivate marijuana in a manner that is visible from the street or other public area.

~~(3)~~(4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

~~(4)~~(5) Nothing in this chapter may be construed to:

(a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;

(b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana or marijuana products;

(c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or marijuana products while working;

(d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(e) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

~~(5)~~(6) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages,

except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding.

~~(6)~~(7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the department under Title 15 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

~~(7)~~(8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the conduct of consumers, licensees, and registered cardholders."

Section 7. Section 16-12-109, MCA, is amended to read:

"**16-12-109. Unlawful conduct by licensees -- penalties.** (1) If the department has reasonable cause to believe that a licensee has violated a provision of this chapter or a rule of the department, it may, in its discretion and in addition to any other penalties prescribed:

(a) reprimand a licensee;

(b) revoke the license of the licensee;

(c) suspend the license for a period of ~~not more than 3 months~~ up to 1 year;

(d) refuse to grant a renewal of the license after its expiration; or

(e) impose a civil penalty not to exceed $3,000.

(2) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

(a) compliance with the provisions of this chapter within the prior 3 years;

(b) the licensee has made good faith efforts to prevent a violation; or

(c) the licensee has cooperated in the investigation of the violation and the licensee or an employee or agent of the licensee accepts responsibility.

(3) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

(a) prior warnings about compliance problems;

(b) prior violations of the provisions of this chapter within the past 3 years;

(c) lack of written policies governing employee conduct;

(d) additional violations revealed during the course of the investigation;

(e) efforts to conceal a violation;

(f) intentional violations; or

(g) involvement of more than one patron or employee in a violation.

(4) For each licensing program regulated by the department under this chapter, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

(5) The department shall revoke and may not reissue a license or endorsement belonging to a person:

(a) whose controlling beneficial owner is an individual convicted of a felony drug offense;

(b) who allows another person not authorized or lawfully allowed to be in possession of the license;

(c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by federal law;

(d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing license;

(e) who purchases marijuana from an unauthorized source in violation of this chapter; or

(f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows or should know is under 21 years of age, unless the person is a registered cardholder.

(6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.

(7) (a) Review of a department action imposing a fine, suspension, or revocation under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision."

Section 8. Section 16-12-110, MCA, is amended to read:

"**16-12-110. Legislative monitoring.** (1) The economic affairs interim committee shall provide oversight of ~~the department's~~ activities pursuant to this chapter, including but not limited to monitoring of:

(a) the number of licensees;

(b) (i) the total square footage of canopy licensed in the state; and

(ii) the percentage of total canopy in production;

~~(b)~~(c) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; ~~and~~

~~(c)~~(d) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 16-12-105;

(e) the number of registered cardholders;

(f) the number and type of violations committed by registered cardholders, together with the penalties imposed on registered cardholders by the department; and

(g) laboratory testing procedures performed by the department in accordance with this chapter.

(2) The economic affairs interim committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-12-203 and 16-12-503. The report must include:

(i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;

(ii) the number and type of violations committed by licensees;

(iii) the number of licenses revoked; ~~and~~

(iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter;

(v) the number of applications for registry identification cards and the number of registered cardholders approved;

(vi) the nature of the debilitating medical conditions of the registered cardholders;

(vii) the number of registry identification cards revoked; and

(viii) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.

(b) The report may not provide ~~any identifying information of cultivators, manufacturers, and dispensaries except basic geographic or other statistical information~~ any identifying information of registered cardholders or physicians.

(4) The report on inspections required under 16-12-210 must include, at a minimum, the following information for both announced and unannounced inspections:

(a) the number of inspections conducted, by canopy licensure tier;

(b) the number of licensees that were inspected more than once during the year;

(c) the number of inspections that were conducted because of complaints made to the department; and

(d) the types of enforcement actions taken as a result of the inspections.

(5) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(6) Pursuant to 37-3-203, the board of medical examiners shall report annually in accordance with 5-11-210 to the economic affairs interim committee on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana."

Section 9. Section 16-12-125, MCA, is amended to read:

"**16-12-125. Hotline.** (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of this chapter.

(2) An individual making a complaint must be a resident and shall provide the individual's name, street address, and phone number.

(3) ~~(a)~~ The department shall provide a copy of the complaint to the person or licensee that is the subject of the complaint.

~~(b) The department may not redact the individual's name or city of residence from the complaint copy.~~

(4) The department may:

(a) investigate reports of suspected abuse of the provisions of this chapter; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring."

Section 10. Section 16-12-129, MCA, is amended to read:

"**16-12-129. Department to conduct background checks.** (1) In addition to any other requirement imposed under this chapter, before issuing any license under this chapter the department shall conduct:

(a) a fingerprint-based background check meeting the requirements for a fingerprint-based background check by the department of justice and the federal bureau of investigation in association with an application for initial licensure and every 5 years thereafter; and

(b) a name-based background check in association with an application for initial licensure and each year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based background check.

(2) For the purpose of the background records check required under subsection (1), the department shall obtain fingerprints from each individual listed on an application submitted under this chapter and each individual who has a controlling beneficial ownership or financial interest in the license or prospective license, including:

(a) each partner of an applicant that is a limited partnership;

(b) each member of an applicant that is a limited liability company;

(c) each director and officer of an applicant that is a corporation;

(d) each individual who holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; ~~and~~

(e) each individual who is a partner, member, director, or officer of a legal entity that holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; and

(f) a person designated by the applicant as responsible for operating the licensed establishment on behalf of the licensee.

~~(3) (a) Except as provided in subsection (3)(b), an employee of a marijuana business shall undergo a criminal background check prior to beginning employment.~~

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall undergo a criminal background check within 90 days of January 1, 2022.~~

~~(4)~~(3) The department may establish procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under this section."

Section 11. Section 16-12-201, MCA, is amended to read:

"**16-12-201. Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, the department may only accept applications from and issue licenses to former medical marijuana licensees that were licensed by or had an application pending with the department of public health and human services on ~~November 3, 2020~~ April 27, 2021, and are in good standing with the department and in compliance with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of January 1, 2022.

(b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after ~~July 1, 2023~~ July 1, 2025.

(2) (a) The department shall adopt rules to govern the operation of former medical marijuana licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate license under this chapter with a minimum of disruption to business operations.

(b) Beginning January 1, 2022, a former medical marijuana licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at the adult-use marijuana tax rate set forth in 15-64-102 under the licensee's existing license in a jurisdiction that

allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana licensee's next license renewal date, by which time the former medical licensee must have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is granted by the department.

(c) (i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2), "appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary license, and, if applicable, a manufacturer license.

(ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to registered cardholders is not required to obtain an adult-use dispensary license.

(3) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms may be prorated by the department."

Section 12. Section 16-12-202, MCA, is amended to read:

"**16-12-202. Testing laboratories -- licensing -- inspection ~~-- state laboratory responsibility~~.** (1) (a) A person who obtains a testing laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana as allowed by this chapter.

(b) A person who is a controlling beneficial owner of a testing laboratory or holds a financial interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing services are performed.

(2) (a) The ~~state laboratory~~ department shall endorse a testing laboratory to perform the testing required under 16-12-206 and 16-12-209 before a testing laboratory may apply for licensure or renewal with the department.

(b) (i) The ~~state laboratory~~ department shall inspect a testing laboratory before endorsing a testing laboratory for licensure or renewal and may not endorse a testing laboratory for licensure or renewal if the applicant does not meet the requirements of 16-12-206 and this section.

(ii) The ~~state laboratory~~ department may not issue a temporary license while an inspection is pending.

(3) An inspection conducted for licensure or renewal of a license must include a review of an applicant's or testing laboratory's:

(a) physical premises where testing will be conducted;

(b) instrumentation;

(c) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

(d) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

(e) vehicles used for transporting marijuana or marijuana product samples for testing purposes.

(4) ~~Upon~~ On receiving an endorsement from the ~~state laboratory~~ department for licensure or annual renewal, a testing laboratory must apply for licensure or renewal with the department by submitting to the department:

(a) the information required by 16-12-203; and

(b) a fee that the department shall establish by rule.

(5) The ~~state laboratory~~ department shall:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products;

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants; and

(c) establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that consumers and registered cardholders receive consistent and uniform information about the potency and quality of the marijuana and marijuana products they receive. The ~~state laboratory~~ department shall:

(i) consult with independent national or international organizations that establish testing standards for marijuana and marijuana products;

(ii) require testing laboratories to follow uniform standards and protocols for the samples accepted for testing and the processes used for testing the samples; and

(iii) track and analyze the raw data for the results of testing conducted by testing laboratories to

ensure that the testing laboratories are providing consistent and uniform results.

(6) The department may retain the services of the analytical laboratory provided by the department of agriculture pursuant to 80-1-104 for the testing contemplated in this section.

(7) If an analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the ~~state laboratory~~ department by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the ~~state laboratory~~ department may suspend the testing laboratory's license. A suspension must be based on rules adopted by the ~~state laboratory~~ department.

(9) The department shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent or misleading; or

(b) providing test results without having:

(i) the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or

(ii) the equipment required under this chapter to conduct the tests for which the laboratory is providing results.

(10) ~~A revocation under this section is subject to judicial review~~ (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for in this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (10)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision."

Section 13. Section 16-12-203, MCA, is amended to read:

"**16-12-203. Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory if the person submits to the department:

(i) the person's name, date of birth, and street address on a form prescribed by the department;

(ii) proof that the natural person having day-to-day operational control over the business is a Montana resident;

(iii) a statement, on a form prescribed by the department, that the person:

(A) will not divert to any other person the marijuana that the person cultivates or the marijuana products that the person manufactures for consumers or registered cardholders, unless the marijuana or marijuana products are sold to another licensee ~~as part of a sale of a business~~ as allowed under this section and by rules of the department; and

(B) has no pending citations for violations occurring under this chapter or the marijuana laws of any other state or jurisdiction;

(iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana products will be cultivated, manufactured, sold, or tested; and

(v) proof that the applicant has source of funding from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(A) is a person whose prior financial or other activities or criminal record:

(B) poses a threat to the public interest of the state;

(C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

(D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business.

(b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial ownership interest.

(c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the department the following:

(i) a complete and accurate organizational chart of the marijuana business disclosing the identity and ownership percentages of its controlling beneficial owners;

(ii) whether the applicant has ever filed for bankruptcy;

(iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

(iv) any financial interests held by the applicant in another marijuana business in any state;

(v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

(viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana business; and

(ix) any financial interest holder that holds two or more financial interests in the marijuana business or that is contributing over 50% of the operating capital of the marijuana business.

(d) The department may request that the marijuana business disclose each beneficial owner and affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded corporation.

(e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(g) This section does not restrict the department's ability to reasonably request information or records at renewal or as part of any other investigation following initial licensure of a marijuana business.

(h) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(2) The department may not license a person under this chapter if the person or an owner, including a person with a financial interest:

(a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under ~~16-12-524~~ 16-12-302 or of making a fraudulent representation under the former medical marijuana program administered by the department of public health and human services;

(d) is under 21 years of age;

(e) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;

(iii) stay out of default on a government-issued student loan;

(iv) pay child support; or

(v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a

government agency;

(f) has had a license issued under this chapter or a former medical marijuana license revoked within 3 years of the date of the application; or

(g) has resided in Montana for less than 1 year.

(3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless federal law otherwise allows for the interstate distribution of marijuana.

(4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or adult-use dispensary shall:

(a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to this chapter and administrative rules;

(b) allow the department to collect samples of marijuana or marijuana products during inspections of licensed premises for testing as provided by the department by rule; and

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 16-12-105.

(5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana products for use by consumers or registered cardholders only at one of the following locations:

(i) a property that is owned by the licensee; or

(ii) with written permission of the property owner filed with the department when applying for or renewing a license, a property that is rented or leased by the licensee.

(b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products or marijuana concentrate may be shared with or rented or leased to another licensee.

(c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises.

(6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this chapter and rules adopted by the department:

(a) may operate adult-use dispensaries;

(b) may engage in manufacturing; and

(c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

(7) A cultivator or manufacturer:

(a) may contract or otherwise arrange for another party that is licensed to process a cultivator's or manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or manufacturer for sale; and

(b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the required license and before the department has completed the inspection required under this chapter unless permitted to do so pursuant to 16-12-207."

Section 14. Section 16-12-206, MCA, is amended to read:

"**16-12-206. Testing laboratories -- licensing inspections.** (1) A testing laboratory may:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products; and

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested.

(2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. A scientific director must have the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

(3) All owners and employees of a testing laboratory shall submit fingerprints to the department to facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.

(4) To qualify for licensure, a testing laboratory shall demonstrate that:

(a) staff members are proficient in operation of the laboratory equipment; and

(b) the laboratory:

(i) maintains the equipment and instrumentation required by rule;

(ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance testing requirements established by rule, including the ability to certify results at the required level of sensitivity;

(iii) meets insurance and bonding requirements established by rule;

(iv) has the capacity and ability to serve rural areas of the state; and

(v) has passed a proficiency program approved by the ~~state laboratory~~ department that demonstrates it is able to meet all testing requirements.

(5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of:

(a) samples of marijuana and marijuana products submitted by cultivators and manufacturers pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;

(b) samples of marijuana or marijuana products collected by the department during inspections of licensed premises; and

(c) samples submitted by consumers or registered cardholders."

Section 15. Section 16-12-207, MCA, is amended to read:

"**16-12-207. Licensing as privilege -- criteria.** (1) A cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, combined-use marijuana license, marijuana transporter license, or any other license authorized under this chapter is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed licensed premises, including but not limited to cultivation centers, dispensaries, and manufacturing facilities.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary license, ~~or~~ medical marijuana license, or testing laboratory license if the applicant's proposed licensed premises:

(i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the department;

(ii) is not approved by local building, health, or fire officials as provided for in this chapter; or

(iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school, unless the locality requires a greater distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was established before the church, synagogue, or other place of worship or school or postsecondary school existed on the same street.

(b) For the purposes of this subsection (3), "school" and "postsecondary school" have the meanings provided in 20-5-402.

(4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder in a vehicle that is parked immediately outside the subject dispensary.

(5) A marijuana business may not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises.

(6) A marijuana business may not utilize the United States postal service or an alternative carrier other than a licensed marijuana transporter to transport, distribute, ship, or otherwise deliver marijuana or marijuana products.

(7) A marijuana business may not provide free marijuana or marijuana products or offer samples of marijuana or marijuana products.

(8) Marijuana or a marijuana product may not be given as a prize, premium, or consideration for a lottery, contest, game of chance, game of skill, or competition of any kind.

(9) (a) Except as provided in subsection (9)(c), an adult-use dispensary or medical marijuana dispensary must have a single, secured entrance for patrons and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance in accordance with department rule.

(b) Except as provided in subsection (9)(c), a marijuana business that is not an adult-use

dispensary or medical marijuana dispensary ~~must~~ shall implement security measures in accordance with department rule to deter and prevent the theft of marijuana and unauthorized entrance.

(c) The provisions of this subsection (9) do not supersede any state or local requirements relating to minimum numbers of points of entry or exit or any state or local requirements relating to fire safety.

(10) Each marijuana business shall install a video monitoring system that must, at a minimum:

(a) allow for the transmission and storage, by digital means, of a video feed that displays the interior and exterior of the cannabis establishment; and

(b) be capable of being recorded as prescribed by the department.

(11) An adult-use dispensary or medical marijuana dispensary may not operate between the hours of 8 p.m. and 9 a.m. daily.

(12) A person under 21 years of age is not permitted inside a marijuana business unless the person is an employee of the marijuana business or a registered cardholder."

Section 16. Section 16-12-208, MCA, is amended to read:

"**16-12-208. Restrictions.** (1) A cultivator or manufacturer may not cultivate marijuana or manufacture marijuana products in a manner that is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids.

(2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location other than the licensed premises approved by the department and within an enclosed area that is secured in a manner that prevents access by unauthorized persons.

(3) A licensee shall make the licensed premises, books, and records available to the department for inspection and audit under 16-12-210 during normal business hours.

(4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee.

(5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

(6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-resistant exit packaging that complies with federal child resistance standards and is designed to be significantly

difficult for children under 5 years of age to open and not difficult for adults to use properly.

(b) (i) Packaging of individual products may contain only the following design elements and language on a white label:

(A) the seller's business name and any accompanying logo or design mark;

(B) the name of the product; and

(C) the THC content or CBD content, health warning messages as provided in 16-12-215, and ingredients.

(ii) All packaging and outward labeling, including business logos and design marks, must also comply with any standards or criteria established by the department, including but not limited to allowable symbols and imagery.

(7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer hemp flower, hemp plants, or alcohol from a licensed premises.

(8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for ultimate sale to a consumer or registered cardholder, a licensee or license applicant shall submit both a package and a label application, in a form prescribed by the department, to receive approval from the department.

(b) The initial submission must be made electronically if required by the department. The licensee or license applicant shall submit a physical prototype upon request by the department.

(c) If a license applicant submits packages and labels for preapproval, final determination for packages and labels may not be made until the applicant has been issued a license.

(d) A packaging and label application must include:

(i) a fee provided for in rule by the department;

(ii) documentation that all exit packaging has been certified as child-resistant by a federally qualified third-party child-resistant package testing firm;

(iii) a picture or rendering of and description of the item to be placed in each package; and

(iv) for label applications for inhalable marijuana products that contain nonmarijuana additives:

(A) the nonmarijuana additive's list of ingredients; and

(B) in a form and manner prescribed by the department, information regarding the additive or

additives and the manufacturer of the additive or additives.

(9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified receptacle into which marijuana or marijuana products already within a container are placed at the retail point of sale."

Section 17. Section 16-12-209, MCA, is amended to read:

"**16-12-209. Testing of marijuana and marijuana products.** (1) A cultivator, manufacturer, adult-use dispensary, or medical marijuana dispensary may not sell marijuana or marijuana products until the marijuana or marijuana products have been tested by a testing laboratory and meet the requirements of this section. The licensee shall pay for the testing.

(2) A licensee shall submit material that has been collected in accordance with a sampling protocol established by the ~~state laboratory~~ department by rule. The protocol must address the division of marijuana and marijuana products into batch sizes for testing.

(3) The ~~state laboratory~~ department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

(a) the potency of the cannabinoids present; and

(b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The ~~state laboratory~~ department shall establish by rule the acceptable levels of moisture, pesticides, residual solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana products may contain.

(6) The testing laboratory shall:

(a) issue a certificate of analysis certifying the test results; and

(b) report the results to the seed-to-sale tracking system established pursuant to 16-12-105.

(7) A licensee may request that material that has failed to pass the required tests be retested in accordance with the rules adopted by the ~~state laboratory~~ department providing for retesting parameters and

requirements.

(8) Marijuana or a marijuana product must include a label indicating that the marijuana or marijuana product has been tested.

(9) (a) The department shall collect and, except as provided in subsection (9)(b), destroy samples of marijuana and marijuana products that fail to meet the acceptable levels to ensure product safety and consumer protection.

(b) If a sample fails due to THC levels in excess of the allowable limit and is not deficient in any other respect, the department may dispose of the sample by means other than destruction in accordance with rule.

(c) The department may contract for the duties under this subsection (9)."

Section 18. Section 16-12-210, MCA, is amended to read:

"**16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees.** (1) (a) The department shall conduct unannounced inspections of licensed premises.

(b) The department may not conduct more than two unannounced inspections of a licensed premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or there is other just and reasonable cause.

(2) (a) The department shall inspect annually each premises operated by a licensee.

(b) The department may collect samples during the inspection of a licensed premises and submit the samples to a testing laboratory ~~or the state laboratory~~ or the analytical laboratory authorized by 80-1-104 for testing as provided by the department by rule.

(3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with consumers and registered cardholders. The records must be open for inspection by the department ~~or state laboratory, as appropriate,~~ and state or local law enforcement agencies.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with a licensee; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana products.

(c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies.

(d) The department may require a licensee to furnish information that the department considers necessary for the proper administration of this chapter.

(4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of a licensed premises consists of a locked area, the licensee shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.

(5) The department may not hire or contract with a person to be an inspector if the person, during the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former medical marijuana licensee.

(6) In addition to any other penalties provided under this chapter, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

(c) noncompliance with any provision of this chapter.

(7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances.

(8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance,

rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this chapter.

(10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under 16-12-110."

Section 19. Section 16-12-222, MCA, is amended to read:

"**16-12-222. Licensing of marijuana transporters.** (1) (a) A marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of marijuana and marijuana products. A marijuana transporter license is valid for 2 years. A licensed marijuana transporter is responsible for the marijuana and marijuana products ~~once~~ after it takes control of the marijuana or marijuana product.

(b) A marijuana transporter may contract with multiple licensed marijuana businesses.

(c) ~~On or after March 1, 2022, and except~~ Except as otherwise provided in this section, all persons who transport marijuana or marijuana products ~~shall~~ must hold a valid marijuana transporter license. ~~The department shall begin accepting applications on or after January 1, 2022. The department may allow for a reasonable grace period for complying with this requirement.~~

(d) The department shall establish by rule the requirements for licensure and the applicable fee for a marijuana transporter license or the renewal of a transporter license. The department may not license a person to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license under 16-12-203(2).

(2) A person who is not licensed under this chapter ~~must~~ shall apply for and obtain a marijuana

transporter license in order to transport marijuana or marijuana products.

(3) A registered cardholder or consumer is not required to possess a marijuana transporter license when purchasing marijuana or marijuana products at a dispensary.

(4) A person who obtains a cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, or testing laboratory license or is an employee of one of those licensees, may:

(a) transport marijuana or marijuana products between other licensed premises without a transporter license so long as the transportation:

(i) complies with rules implementing the seed-to-sale tracking system set forth in 16-12-105; and

(ii) includes a printed manifest containing information as required by the department; and

(b) deliver marijuana from a dispensary to a registered cardholder provided that the person delivering the marijuana or marijuana products:

(i) complies with rules adopted by the department; and

(ii) includes a printed delivery manifest from a dispensary to a registered cardholder containing the registered cardholder's address and cardholder number and the dispensary's address and license number.

(5) (a) A marijuana transporter licensee may maintain a licensed premises to temporarily store marijuana and marijuana products and to use as a centralized distribution point in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(b) The licensed premises must be located in a jurisdiction that permits the operation of a marijuana business and comply with rules adopted by the department.

(c) A marijuana transporter may store and distribute marijuana and marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a license under this chapter.

(6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products throughout the state.

(7) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or

registered cardholders only and may not make deliveries of marijuana or marijuana products to individual consumers.

(8) A person delivering marijuana or marijuana products for a marijuana transporter must possess a valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana transporter licensee."

Section 20. Section 16-12-223, MCA, is amended to read:

"**16-12-223. Licensing of cultivators.** (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility.

(b) Except as provided in subsection (6), the system ~~shall~~ must include, at a minimum, the following license types:

(i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities.

(vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities.

(vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor cultivation facilities.

(viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor cultivation facilities.

(ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor cultivation facilities.

(x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor cultivation facilities.

(xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor cultivation facilities.

(xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor cultivation facilities.

(xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor cultivation facilities.

(c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(d) When evaluating an initial or renewal license application, the department shall evaluate each proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

(e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application by demonstrating that:

(A) the cultivator is using the full amount of canopy currently authorized;

(B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

(C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by

only one tier at a time.

(iii) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, a cultivator may, at any time, increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B).

(iv) The department shall conduct an inspection of the cultivator's registered premises and proposed premises within 30 days of receiving the application and before approving the application.

(f) A marijuana business that has not been issued a license before ~~July 1, 2023~~ July 1, 2025, must be initially licensed at a tier 2 canopy license or lower.

(2) The department is authorized to create additional tiers as necessary.

(3) The department may adopt rules:

(a) for inspection of proposed indoor cultivation facilities under subsection (1);

(b) for investigating owners or applicants for a determination of financial interest; and

(c) in consultation with the department of agriculture and based on well-supported science, to require licensees to adopt practices consistent with the prevention, introduction, and spread of insects, diseases, and other plant pests into Montana.

(4) Initial licensure and annual fees for these licensees are:

(a) $1,000 for a cultivator with a micro tier canopy license;

(b) $2,500 for a cultivator with a tier 1 canopy license;

(c) $5,000 for a cultivator with a tier 2 canopy license;

(d) $7,500 for a cultivator with a tier 3 canopy license;

(e) $10,000 for a cultivator with a tier 4 canopy license;

(f) $13,000 for a cultivator with a tier 5 canopy license;

(g) $15,000 for a cultivator with a tier 6 canopy license;

(h) $17,500 for a cultivator with a tier 7 canopy license;

(i) $20,000 for a cultivator with a tier 8 canopy license;

(j) $23,000 for a cultivator with a tier 9 canopy license;

(k) $27,000 for a cultivator with a tier 10 canopy license;

(l) $32,000 for a cultivator with a tier 11 canopy license; and

(m) $37,000 for a cultivator with a tier 12 canopy license.

(5) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

(6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation."

Section 21. Section 16-12-225, MCA, is amended to read:

"**16-12-225. Combined-use marijuana licensing -- requirements.** (1) The department may issue a total of eight combined-use marijuana licenses to entities that are:

(a) a federally recognized tribe located in the state; or

(b) a business entity that is majority-owned by a federally recognized tribe located in the state.

(2) A combined-use marijuana license consists of one ~~tier 1~~ canopy license and one dispensary license allowing for the operation of a dispensary. ~~Cultivation and dispensary facilities must be located at the same licensed premises.~~

(3) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on land that is located~~:~~

~~(a) within 150 air-miles of the exterior boundary of the associated tribal reservation or, for the Little Shell Chippewa tribe only, within 150 air-miles of the tribal service area; and~~

~~(b)~~ in a county that has satisfied the local government approval provisions in 16-12-301 if the majority of voters in the county voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(4) An applicant under this section must satisfy all licensing requirements under this chapter and is subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products provided for in this chapter.

(5) A license granted under this section must be operated in compliance with all requirements imposed under this chapter.

(6) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe or another majority-owned business of that tribe may not obtain another combined-use license until the prior

license is relinquished, lapses, or is revoked by the department."

Section 22. Section 16-12-226, MCA, is amended to read:

"**16-12-226. Marijuana worker permit -- requirements.** (1) A marijuana worker permit is required for an employee who performs work for or on behalf of a marijuana business if the individual participates in any aspect of the marijuana business.

(2) ~~(a) Except as provided in subsection (2)(b), a~~ A marijuana business may not allow an employee to perform any work at the licensed premises until it has verified that the employee has obtained a valid marijuana worker permit issued in accordance with this chapter.

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall obtain a marijuana worker permit within 90 days of January 1, 2022.~~

(3) An applicant for a marijuana worker permit shall submit:

(a) an application on a form prescribed by the department with information including the applicant's:

(i) name;

(ii) mailing address;

(iii) date of birth;

(iv) signature; and

(v) response to conviction history questions requested by the department;

(b) a copy of a driver's license or identification card issued by one of the fifty states in the United States or a passport;

(c) annual proof of having passed training that includes identification, prevention, and reporting for human trafficking, rules and regulations for legal sales of marijuana in Montana, and any other training required by the department; and

(d) a fee established by the department.

(4) (a) Except as provided in subsection (4)(b), an application that does not contain the elements set forth in subsection (3) is incomplete.

(b) The department may review an application prior to receiving the fee but may not issue a permit

until the fee is received.

(5) The department shall deny an initial or renewal application if the applicant:

(a) is not 18 years of age or older;

(b) has had a marijuana license or worker permit revoked for a violation of this chapter or any rule adopted under this chapter within 2 years of the date of the application;

(c) has violated any provision of this chapter; or

(d) makes a false statement to the department.

(6) An employee of a licensee shall carry the employee's worker permit at all times when performing work on behalf of a marijuana business.

(7) A person who holds a marijuana worker permit ~~must~~ shall notify the ~~department~~ person's employer in writing within 10 days of:

(a) a conviction for a felony;

(b) the issuance of any citation for violating a marijuana law imposed under this chapter or the marijuana laws of any other state; or

(c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor."

Section 23. Section 16-12-301, MCA, is amended to read:

"**16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until:

(i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection (3) or (4); and

(ii) the business is licensed by the department pursuant to this chapter.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through

(6).

(c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with ~~the department of public health and human services and~~ the department.

(d) For the purpose of this section, the marijuana business categories that must be approved by a local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may operate are:

(i) cultivator;

(ii) manufacturer;

(iii) medical marijuana dispensary, except as provided in subsection (1)(b);

(iv) adult-use dispensary;

(v) combined-use marijuana licensee;

(vi) testing laboratory; and

(vii) marijuana transporter facility.

(e) Marijuana businesses located in counties in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government approval process under subsections (3) through (6).

(2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary is exempt from complying with any local governmental regulations that are adopted under this

subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the expiration of any grace period granted by the locality, whichever is later.

(3) An election regarding whether to approve any or all of the marijuana business categories listed in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137 by:

(a) the qualified electors of a county; or

(b) the qualified electors of a municipality.

(4) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed in accordance with Title 13, chapter 1, part 4.

(b) An election pursuant to this section may be held in conjunction with a regular election of the governing body, general election, or a regular local or special election.

(5) If the qualified electors of a county vote to approve a type of marijuana business to be located in the jurisdiction, the governing body shall enter the approval into the records of the local government and notify the department of the election results.

(6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census:

(i) it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana business from being located in the municipality; and

(ii) the county shall conduct the election in a manner that separates the votes in the municipality from those in the remaining parts of the county.

(b) If a majority of the qualified electors in the county, including the qualified electors in the municipality, vote to approve a category of marijuana business to be located in the county, the county may allow that category of marijuana business to operate in the county.

(c) (i) If a majority of the qualified electors in the municipality vote to approve a category of marijuana business to be located in the municipality, the municipality may allow that type of marijuana business to operate in the municipality.

(ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana

business from being located in the municipality, the municipality may not allow that type of marijuana business to operate in the municipality.

(d) Nothing contained in this subsection (6) prevents any municipality from having a separate election under the terms of this section.

(7) (a) A county or municipality that has voted to approve a category of marijuana business to be located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations within the jurisdiction.

(b) A vote overturning the approval of a category of marijuana business or prohibiting the previously permitted operation of marijuana businesses is effective on the 90th day after the local election is held.

(8) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this chapter."

Section 24. Section 16-12-302, MCA, is amended to read:

"**16-12-302. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is:

(a) a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory, or marijuana transporter or has a marijuana worker permit is guilty of a civil fine not to exceed $1,000; or

(b) a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

(2) An individual convicted under this section may not be licensed under this chapter.

(3) A physician who purposely and knowingly misrepresents any information required under 16-12-509 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both."

Section 25. Section 16-12-310, MCA, is amended to read:

"**16-12-310. Limit on local-option marijuana excise tax rate -- goods subject to tax.** (1) The rate of the local-option marijuana excise tax must be established by the election petition or resolution provided for in 16-12-311, and the rate may not exceed 3%.

(2) The local-option marijuana excise tax is a tax on the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary within a county.

(3) If a county imposes a local-option marijuana excise tax:

(a) 50% of the resulting tax revenue must be retained by the county;

(b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio of the population of ~~the~~ each city or town to the ~~total county~~ population of municipalities within the county; and

(c) the remaining 5% of the resulting tax revenue must be retained by the department to defray costs associated with administering 16-12-309 through 16-12-312 and 16-12-317. The funds retained by the department under this subsection (3)(c) must be deposited into the marijuana state special revenue account established under 16-12-111.

(4) For the purposes of this section, "tax revenue" means the combined taxes collected under any local-option marijuana excise tax collected on retail sales within the county."

Section 26. Section 16-12-311, MCA, is amended to read:

"**16-12-311. Local government excise tax-- election required -- procedure -- notice.** (1) A county that has permitted an adult-use dispensary or medical marijuana dispensary to operate within its borders pursuant to 16-12-301 or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election, may not impose or, except as provided in this section, amend or repeal a local-option marijuana excise tax unless the local-option marijuana excise tax question has been approved by a majority of the qualified electors voting on the question.

(2) The local-option marijuana excise tax question may be presented to the qualified electors of a county by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-135, and 7-5-137 or by a resolution of the governing body of the county.

(3) The petition or resolution referring the taxing question must state:

(a) the rate of the tax, which may not exceed 3% of the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary;

(b) the date when the tax becomes effective, which may not be earlier than 90 days after the election; and

(c) the purposes that may be funded by the tax revenue.

(4) On receipt of an adequate petition, the county's governing body shall hold an election in accordance with Title 13, chapter 1, part 5.

~~(5) (a) Before the local-option marijuana excise tax question is submitted to the electorate, the county shall provide notice of the goods subject to the local-option marijuana excise tax by a method described in 13-1-108.~~

~~(b) The notice must be given two times, with at least 6 days separating the notices. The first notice must be given not more than 45 days prior to the election, and the last notice must be given not less than 30 days prior to the election.~~

~~(6)~~(5) Notice of the election must be given as provided in 13-1-108 and include the information listed in subsection (3) of this section.

~~(7)~~(6) The question of the imposition of a local-option marijuana excise tax may not be placed before the qualified electors more than once in any fiscal year."

Section 27. Section 16-12-508, MCA, is amended to read:

"**16-12-508. Individuals with debilitating medical conditions -- requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through (5), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the individual's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement, on a form prescribed by the department, that the individual will not divert to any other individual the marijuana or marijuana products that the individual cultivates, manufactures, or obtains through the system of licensed providers for the individual's debilitating medical condition;

(f) the name of the individual's treating physician or referral physician and the street address and telephone number of the physician's office;

(g) the street address where the individual is cultivating marijuana or manufacturing marijuana products if the individual is cultivating marijuana or manufacturing marijuana products for the individual's own use; and

(h) the written certification and accompanying statements from the individual's treating physician or referral physician as required pursuant to 16-12-509.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana;

(ii) indicates whether the minor's custodial parent or legal guardian will be obtaining marijuana or marijuana products for the minor through the system of licensed dispensaries provided for in this chapter; and

(iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and

(C) agrees that the minor will use only marijuana products <u>intended for use by a means other than smoking</u> and will not smoke marijuana;

(c) if the parent or guardian will be serving as the minor's cultivator, undergoes background checks

in accordance with subsection (3). The parent or legal guardian shall pay the costs of the background check and may not obtain a license under this chapter if the parent or legal guardian does not meet the requirements set forth in this chapter.

(d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana purchased for the minor's use in a marijuana product.

(3) A parent serving as a minor's cultivator shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation upon the minor's initial application for a registry identification card and every 5 years after that. The department shall conduct a name-based background check in years when a fingerprint background check is not required.

(4) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 16-12-509 from a second physician in addition to the minor's treating physician or referral physician unless the minor's treating physician or referral physician is an oncologist, neurologist, or epileptologist.

(5) An individual may not be a registered cardholder if the individual is in the custody of or under the supervision of the department of corrections or a youth court."

Section 28. Section 20-1-220, MCA, is amended to read:

"**20-1-220. Use of marijuana and tobacco products in public school building or on public school property prohibited.** (1) An individual may not use a tobacco product, vapor product, marijuana product, or alternative nicotine product in a public school building or on public school property.

(2) (a) Subsection (1) does not apply to the use of a tobacco product, vapor product, marijuana product, or alternative nicotine product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product, vapor product, marijuana product, or alternative nicotine product.

(b) Subsection (1) does not apply to the use of a smoking cessation product by an employee.

(3) The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

(4) A violation of this section is subject to the penalties provided in 50-40-115.

(5) For the purposes of this section, the following definitions apply:

(a) "Alternative nicotine product" means a manufactured noncombustible product that contains nicotine derived from tobacco and that is intended for human consumption by being chewed, absorbed, dissolved, or ingested by any other means.

(b) (i) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer.

(ii) The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, marijuana concentrates, and marijuana intended for use by smoking or vaping.

~~(b)~~(c) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

(ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses.

~~(c)~~(d) "Tobacco product" means a substance intended for human consumption that contains tobacco, including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

~~(d)~~(e) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes:

(i) an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device; and

(ii) a vapor cartridge or other container in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product and device."

NEW SECTION. **Section 29. Repealer.** The following sections of the Montana Code Annotated are repealed:

16-12-524. Fraudulent representation -- penalties.

16-12-532. Legislative monitoring.

NEW SECTION. **Section 30. Appropriation.** ~~There~~ FOR THE BIENNIUM BEGINNING JULY 1, 2023, THERE is appropriated $149,285.58 from the marijuana state special revenue account provided for in 16-12-111 to the department of revenue, which comprises 2 FTE transferred from the department of public health and human services to the department of revenue.

NEW SECTION. **Section 31. Transition.** (1) The legislature directs the department of public health and human services to assist the department of revenue with the transfer of FTE, information, materials, and any other marijuana-related assets that the department of revenue considers necessary to implement the regulation of marijuana testing laboratories in the state and exercise authority over the regulation of marijuana testing laboratory licensees in the state.

(2) On July 1, 2023, the department of public health and human services shall transfer to the department of revenue the existing endorsements for any marijuana testing laboratory licensees. Existing endorsements transferred pursuant to this section must be accepted and administered by the department of revenue.

NEW SECTION. **Section 32. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

NEW SECTION. **Section 33. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2023.

(2) [Sections 3, 8, 11, 13, 20, and 21] and this section are effective on passage and approval.

(3) [Sections 12, 14, 15, 17, 18, ~~and~~ 23, AND 30] are effective July 1, 2023.

- END -

HOUSE BILL NO. 128

INTRODUCED BY J. KASSMIER

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING REPORTS TO THE LEGISLATURE; CLARIFYING PERMISSIVE ACTS AND EXCEPTIONS FOR REGISTERED CARDHOLDERS; CLARIFYING LIMITATIONS OF THE MONTANA MARIJUANA REGULATION AND TAXATION ACT; CLARIFYING PENALTIES; REVISING PENALTIES FOR SUSPENDED LICENSES; COMBINING SECTIONS ON LEGISLATIVE MONITORING; CLARIFYING LEGISLATIVE MONITORING DUTIES; REMOVING THE IDENTITY DISCLOSURE REQUIREMENT FOR LICENSEE COMPLAINTS; REMOVING OUTDATED DATES; REMOVING THE BACKGROUND CHECK REQUIREMENT FOR CERTAIN INDIVIDUALS; EXTENDING THE MORATORIUM FOR NEW MARIJUANA LICENSES; TRANSFERRING AUTHORITY OVER MARIJUANA TESTING LABORATORIES; CLARIFYING THE MINIMUM AGE TO ENTER A MARIJUANA BUSINESS; CLARIFYING LEGISLATIVE INTENT ON A CULTIVATOR'S ABILITY TO INCREASE TIERS; REVISING REQUIREMENTS FOR A COMBINED-USE LICENSE; REVISING REPORTING REQUIREMENTS FOR EMPLOYEE CONVICTIONS OR VIOLATIONS; COMBINING SECTIONS ON FRAUDULENT REPRESENTATION; CLARIFYING THE FORMULA FOR MUNICIPAL TAX REVENUE ALLOCATION; REMOVING CONFLICTING NOTICE REQUIREMENTS; EXTENDING RULEMAKING AUTHORITY; REVISING DEFINITIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 5-11-222, 15-64-101, 16-12-102, 16-12-104, 16-12-106, 16-12-108, 16-12-109, 16-12-110, 16-12-125, 16-12-129, 16-12-201, 16-12-202, 16-12-203, 16-12-206, 16-12-207, 16-12-208, 16-12-209, 16-12-210, 16-12-222, 16-12-223, 16-12-225, 16-12-226, 16-12-301, 16-12-302, 16-12-310, 16-12-311, 16-12-508, AND 20-1-220, MCA; REPEALING SECTIONS 16-12-524 AND 16-12-532, MCA; AND PROVIDING EFFECTIVE DATES.”

WHEREAS, during the 2021-2022 interim, the Economic Affairs Interim Committee received testimony relating to the interpretation and implementation of the Montana Marijuana Regulation and Taxation Act; and

WHEREAS, specifically, the committee received testimony that section 16-12-223, MCA, allowed only

qualifying marijuana cultivator licensees to increase production tiers at the licensee's renewals and not at the licensee's discretion; and

WHEREAS, the committee disagreed with this interpretation and provided its analysis; and

WHEREAS, the issue was resolved to the committee's satisfaction; and

WHEREAS, this bill amends section 16-12-223, MCA, to remove all existing doubt whether the Legislature intended to allow a qualifying marijuana cultivator licensee to increase production tiers at their discretion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-11-222, MCA, is amended to read:

"**5-11-222. Reports to legislature.** (1) (a) Except as provided in ~~subsection~~ subsections (1)(b) and (6), a report to the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or before September 1 of each year preceding the convening of a regular session of the legislature.

(b) If otherwise specified in law, a report may be required more or less frequently than the biennial requirement in subsection (1)(a).

(2) Reports to the legislature include:

(a) annual reports on the unified investment program for public funds and public retirement systems and state compensation insurance fund assets audits from the board of investments in accordance with Article VIII, section 13, of the Montana constitution;

(b) federal mandates requirements from the governor in accordance with 2-1-407;

(c) activities of the state records committee in accordance with 2-6-1108;

(d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

(e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-410;

(f) progress on gender and racial balance from the governor in accordance with 2-15-108;

(g) a mental health report from the ombudsman in accordance with 2-15-210;

(h) policies related to children and families from the interagency coordinating council for state

prevention in accordance with 2-15-225;

(i) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

(j) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board in accordance with 2-15-3113;

(k) the allocation of space report from the department of administration required in accordance with 2-17-101;

(l) information technology activities in accordance with 2-17-512;

(m) state strategic information technology plan exceptions, if granted, from the department of administration in accordance with 2-17-515;

(n) the state strategic information technology plan and biennial report from the department of administration in accordance with 2-17-521 and 2-17-522;

(o) reports from standing, interim, and administrative committees, if prepared, in accordance with 2-17-825 and 5-5-216;

(p) statistical and other data related to business transacted by the courts from the court administrator, if requested, in accordance with 3-1-702;

(q) the judicial standards commission report in accordance with 3-1-1126;

(r) an annual report on the actual cost of legislation that had a projected fiscal impact from the office of budget and program planning in accordance with 5-4-208;

(s) a link to annual state agency reports on grants awarded in the previous fiscal year established by the legislative finance committee in accordance with 5-12-208;

(t) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in accordance with 5-12-302(4);

(u) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may impair the independence of the legislative audit division in accordance with 5-13-305;

(v) if a waste of state resources occurs, a report from the legislative state auditor, in accordance with 5-13-311;

(w) school funding commission reports each fifth interim in accordance with 5-20-301;

(x) a report of political committee operations conducted on state-owned property, if required, from

a political committee to the legislative services division in accordance with 13-37-404;

(y) a report concerning taxable value from the department of revenue in accordance with 15-1-205;

(z) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;

(aa) semiannual reports on the Montana heritage preservation and development account from the Montana heritage preservation and development commission in accordance with 15-65-121;

(bb) general marijuana regulation reports and medical marijuana registry reports from the department of revenue in accordance with 16-12-110;

~~(cc) medical marijuana registry reports from the department of revenue in accordance with 16-12-532 (3);~~

~~(dd)~~(cc) annual reports on general fund and nongeneral fund encumbrances from the department of administration in accordance with 17-1-102;

~~(ee)~~(dd) loans or loan extensions authorized for two consecutive fiscal years from the department of administration and office of commissioner of higher education, including negative cash balances from the commissioner of higher education, in accordance with 17-2-107;

~~(ff)~~(ee) a report of local government entities that have balances contrary to limitations provided for in 17-2-302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;

~~(gg)~~(ff) an annual report from the board of investments in accordance with 17-5-1650(2);

~~(hh)~~(gg) a report on retirement system trust investments and benefits from the board of investments in accordance with 17-6-230;

~~(ii)~~(hh) recommendations for reductions in spending and related analysis, if required, from the office of budget and program planning in accordance with 17-7-140;

~~(jj)~~(ii) a statewide facility inventory and condition assessment from the department of administration in accordance with 17-7-202;

~~(kk)~~(jj) actuary reports and investigations for public retirement systems from the public employees' retirement board in accordance with 19-2-405;

~~(ll)~~(kk) a work report from the public employees' retirement board in accordance with 19-2-

407;

~~(mm)~~(ll) annual actuarial reports and evaluations from the teachers' retirement board in accordance with 19-20-201;

~~(nn)~~(mm) reports from the state director of K-12 career and vocational and technical education, as requested, in accordance with 20-7-308;

~~(oo)~~(nn) 5-year state plan for career and technical education reports from the board of regents in accordance with 20-7-330;

~~(pp)~~(oo) a gifted and talented students report from the office of public instruction in accordance with 20-7-904;

~~(qq)~~(pp) status changes for at-risk students from the office of public instruction in accordance with 20-9-328;

~~(rr)~~(qq) status changes for American Indian students from the office of public instruction in accordance with 20-9-330;

~~(ss)~~(rr) reports regarding the Montana Indian language preservation program from the office of public instruction in accordance with 20-9-537;

~~(tt)~~(ss) proposals for funding community colleges from the board of regents in accordance with 20-15-309;

~~(uu)~~(tt) expenditures and activities of the Montana agricultural experiment station and extension service, as requested, in accordance with 20-25-236;

~~(vv)~~(uu) reports, if requested by the legislature, from the president of each of the units of the higher education system in accordance with 20-25-305;

~~(ww)~~(vv) reports, if prepared by a public postsecondary institution, regarding free expression activities on campus in accordance with 20-25-1506;

~~(xx)~~(ww) reports from the Montana historical society trustees in accordance with 22-3-107;

~~(yy)~~(xx) state lottery reports in accordance with 23-7-202;

~~(zz)~~(yy) a report from the division of banking and financial institutions, if required, from the department of administration in accordance with 32-11-306;

~~(aaa)~~(zz) state fund reports, if required, from the commissioner in accordance with 33-1-115;

~~(bbb)~~(aaa) reports from the department of labor and industry in accordance with 39-6-101;

~~(ccc)~~(bbb) victim unemployment benefits reports from the department of labor and industry in accordance with 39-51-2111;

~~(ddd)~~(ccc) state fund business reports in accordance with 39-71-2363;

~~(eee)~~(ddd) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;

~~(fff)~~(eee) child custody reports from the office of the court administrator in accordance with 41-3-1004;

~~(ggg)~~(fff) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the governor in accordance with 46-23-316;

~~(hhh)~~(ggg) annual statewide public defender reports from the office of state public defender in accordance with 47-1-125;

~~(iii)~~(hhh) a trauma care system report from the department of public health and human services in accordance with 50-6-402;

~~(jjj)~~(iii) an older Montanans trust fund report from the department of public health and human services in accordance with 52-3-115;

~~(kkk)~~(jjj) Montana criminal justice oversight council reports in accordance with 53-1-216;

~~(lll)~~(kkk) medicaid block grant reports from the department of public health and human services in accordance with 53-1-611;

~~(mmm)~~(lll) reports on the approval and implementation status of medicaid section 1115 waivers in accordance with 53-2-215;

~~(nnn)~~(mmm) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

~~(ooo)~~(nnn) medicaid funding reports from the department of public health and human services in accordance with 53-6-110;

~~(ppp)~~(ooo) proposals regarding managed care for medicaid recipients, if required, from the department of public health and human services in accordance with 53-6-116;

~~(qqq)~~(ppp) suicide reduction plans from the department of public health and human services in

accordance with 53-21-1102;

~~(rrr)~~(qqq) a compliance and inspection report from the department of corrections in accordance with 53-30-604;

~~(sss)~~(rrr) emergency medical services grants from the department of transportation in accordance with 61-2-109;

~~(ttt)~~(sss) annual financial reports on the environmental contingency account from the department of environmental quality in accordance with 75-1-1101;

~~(uuu)~~(ttt) the Flathead basin commission report in accordance with 75-7-304;

~~(vvv)~~(uuu) a report from the land board, if prepared, in accordance with 76-12-109;

~~(www)~~(vvv) an annual state trust land report from the land board in accordance with 77-1-223;

~~(xxx)~~(www) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-713;

~~(yyy)~~(xxx) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

~~(zzz)~~(yyy) reports on the allocation of renewable resources grants and loans for emergencies, if required, from the department of natural resources and conservation in accordance with 85-1-605;

~~(aaaa)~~(zzz) water storage projects from the governor's office in accordance with 85-1-704;

~~(bbbb)~~(aaaa) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-338;

~~(cccc)~~(bbbb) upland game bird enhancement program reports in accordance with 87-1-250;

~~(dddd)~~(cccc) private land/public wildlife advisory committee reports in accordance with 87-1-269;

~~(eeee)~~(dddd) a future fisheries improvement program report from the department of fish, wildlife, and parks in accordance with 87-1-272;

~~(ffff)~~(eeee) license revenue recommendations from the department of fish, wildlife, and parks in accordance with 87-1-629;

~~(gggg)~~(ffff) land information data reports from the state library in accordance with 90-1-404;

~~(hhhh)~~(gggg) hydrocarbon and geology investigation reports from the bureau of mines and geology in accordance with 90-2-201;

~~(iiii)~~(hhhh) coal ash markets investigation reports from the department of commerce in accordance with 90-2-202;

~~(jjjj)~~(iiii) an annual report from the pacific northwest electric power and conservation planning council in accordance with 90-4-403;

~~(kkkk)~~(jjjj) community property-assessed capital enhancements program reports from the Montana facility finance authority in accordance with 90-4-1303;

~~(llll)~~(kkkk) veterans' home loan mortgage loan reports from the board of housing in accordance with 90-6-604;

~~(mmmm)~~(llll) matching infrastructure planning grant awards by the department of commerce in accordance with 90-6-703(3); and

~~(nnnn)~~(mmmm) treasure state endowment program reports from the department of commerce in accordance with 90-6-710;

(3) Reports to the legislature include reports made to an interim committee as follows:

(a) reports to the law and justice interim committee, including:

(i) findings of the domestic violence fatality review commission in accordance with 2-15-2017;

(ii) the report from the missing indigenous persons review commission in accordance with 2-15-2018;

(iii) reports from the department of justice and public safety officer standards and training council in accordance with 2-15-2029;

(iv) information on the Montana False Claims Act from the department of justice in accordance with 17-8-416;

(v) annual case status reports from the attorney general in accordance with 41-3-210;

(vi) office of court administrator reports in accordance with 41-5-2003;

(vii) statewide public safety communications system activities from the department of justice in accordance with 44-4-1606;

(viii) reports on the status of the crisis intervention team training program from the board of crime control in accordance with 44-7-110;

(ix) restorative justice grant program status and performance from the board of crime control in

accordance with 44-7-302;

(x) reports on offenders under supervision with new offenses or violations from the department of corrections in accordance with 46-23-1016;

(xi) supervision responses grid reports from the department of corrections in accordance with 46-23-1028;

(xii) statewide public defender reports and information from the office of state public defender in accordance with 47-1-125;

(xiii) every 5 years, a percentage change in public defender funding report from the legislative fiscal analyst in accordance with 47-1-125;

(xiv) every 5 years, statewide public defender reports on the percentage change in funding from the office of state public defender in accordance with 47-1-125; and

(xv) a report from the quality assurance unit from the department of corrections in accordance with 53-1-211;

(b) reports to the state administration and veterans' affairs interim committee, including:

(i) a report that includes information technology activities and additional information from the information technology board in accordance with 2-17-512 and 2-17-513;

(ii) a report from the capitol complex advisory council in accordance with 2-17-804;

(iii) a report on the employee incentive award program from the department of administration in accordance with 2-18-1103;

(iv) a board of veterans' affairs report in accordance with 10-2-102;

(v) a report on grants to the Montana civil air patrol from the department of military affairs in accordance with 10-3-802;

(vi) annual reports on statewide election security from the secretary of state in accordance with 13-1-205;

(vii) a report regarding the youth voting program, if requested, from the secretary of state in accordance with 13-22-108;

(viii) a report from the commissioner of political practices in accordance with 13-37-120;

(ix) a report on retirement system trust investments from the board of investments in accordance

with 17-6-230;

(x) actuarial valuations and other reports from the public employees' retirement board in accordance with 19-2-405 and 19-3-117;

(xi) actuarial valuations and other reports from the teachers' retirement board in accordance with 19-20-201 and 19-20-216;

(xii) a report on the reemployment of retired members of the teachers' retirement system from the teachers' retirement board in accordance with 19-20-732; and

(xiii) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the secretary of state in accordance with 30-9A-527;

(c) reports to the children, families, health, and human services interim committee, including:

(i) performance data from the department of public health and human services in accordance with 2-15-2225;

(ii) quarterly reports on data requirements from the department of public health and human services in accordance with 5-12-303;

(iii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(iv) Montana HELP Act workforce development reports from the department of public health and human services in accordance with 39-12-103;

(v) annual reports from the child and family ombudsman in accordance with 41-3-1211;

(vi) reports on activities and recommendations on child protective services activities, if required, from the child and family ombudsman in accordance with 41-3-1215;

(vii) reports on the out-of-state placement of high-risk children with multiagency service needs from the department of public health and human services in accordance with 52-2-311;

(viii) private alternative adolescent residential and outdoor programs reports from the department of public health and human services in accordance with 52-2-803;

(ix) an annual Montana parents as scholars program report from the department of public health and human services in accordance with 53-4-209;

(x) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(xi) a report concerning mental health managed care services, if managed care is in place, from the advisory council in accordance with 53-6-710;

(xii) quarterly medicaid reports related to expansion from the department of public health and human services in accordance with 53-6-1325;

(xiii) annual Montana developmental center reports from the department of public health and human services in accordance with 53-20-225; and

(xiv) annual children's mental health outcomes from the department of public health and human services in accordance with 53-21-508;

(xv) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(d) reports to the economic affairs interim committee, including:

(i) the annual state compensation insurance fund budget from the board of directors in accordance with 5-5-223 and 39-71-2363;

(ii) general marijuana regulation reports from the department of revenue in accordance with 16-12-110(3);

(iii) medical marijuana registry reports from the department of revenue in accordance with ~~16-12-532(3)~~ 16-12-110;

(iv) annual reports on complaints against physicians certifying medical marijuana use from the board of medical examiners in accordance with ~~16-12-532(4)~~ 16-12-110(6);

(v) an annual report on the administrative rate required from the department of commerce from the Montana heritage preservation and development commission in accordance with 22-3-1002;

(vi) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;

(vii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-71-2375;

(viii) annual reinsurance reports from the Montana reinsurance association board required in accordance with 33-22-1308;

(ix) reports from the department of labor and industry concerning board attendance in accordance with 37-1-107;

(x) annual reports on physician complaints related to medical marijuana from the board of medical examiners in accordance with 37-3-203;

(xi) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(xii) status reports on the special revenue account and fees charged as a funding source from the board of funeral service in accordance with 37-19-204;

(xiii) unemployment insurance program integrity act reports from the department of labor and industry in accordance with 39-15-706;

(xiv) status reports on the distressed wood products industry revolving loan program from the department of commerce in accordance with 90-1-503;

(e) reports to the education interim committee, including:

(i) reemployment of retired teachers, specialists, and administrators reports from the retirement board in accordance with 19-20-732;

(ii) a report on participation in the interstate compact on educational opportunity for military children in accordance with 20-1-231;

(iii) grow your own grant program reports from the commissioner of higher education in accordance with 20-4-601;

(iv) standards of accreditation proposals and economic impact statements from the board of public education in accordance with 20-7-101;

(v) advanced opportunity program reports from the board of public education in accordance with 20-7-1506;

(vi) progress on transformational learning plans from the board of public education in accordance with 20-7-1602;

(vii) budget amendments, if needed, from school districts in accordance with 20-9-161;

(viii) annual Montana resident student financial aid program reports from the commissioner of higher education in accordance with 20-26-105;

(ix) a historic preservation office report from the historic preservation officer in accordance with 22-3-423; and

(x) interdisciplinary child information agreement reports from the office of public instruction in

accordance with 52-2-211;

(f) reports to the energy and telecommunications interim committee, including:

(i) the high-performance building report from the department of administration in accordance with 17-7-214;

(ii) an annual report from the consumer counsel in accordance with 69-1-222;

(iii) annual universal system benefits reports from utilities, electric cooperatives, and the department of revenue in accordance with 69-8-402;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501; and

(v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-1301;

(g) reports to the revenue interim committee, including:

(i) use of the qualified endowment tax credit report from the department of revenue in accordance with 15-1-230;

(ii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with 15-7-111;

(iii) gray water property tax abatement usage reports from the department of revenue in accordance with 15-24-3211;

(iv) information about job growth incentive tax credits from the department of revenue in accordance with 15-30-2361;

(v) student scholarship contributions from the department of revenue in accordance with 15-30-3112;

(vi) tax havens from the department of revenue in accordance with 15-31-322;

(vii) media production tax credit economic impact reports from the department of commerce in accordance with 15-31-1011; and

~~(viii) medical marijuana registry reports from the department of revenue in accordance with 16-12-532 (5);~~

~~(ix) complaints against physicians certifying use of medical marijuana from the board of medical~~

~~examiners in accordance with 16-12-532 (5); and~~

~~(x)~~(viii) reports that actual or projected receipts will result in less revenue than estimated from the office of budget and program planning, if necessary, in accordance with 17-7-140;

(h) reports to the transportation interim committee, including:

(i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;

(ii) cooperative agreement negotiations from the department of transportation in accordance with 15-70-450;

(iii) an annual alternative project delivery contracting report from the department of transportation in accordance with 60-2-119; and

(iv) a special fuels inspection report from the department of transportation in accordance with 61-10-154;

(i) reports to the environmental quality council, including:

(i) compliance and enforcement reports required in accordance with 75-1-314;

(ii) the state solid waste management and resource recovery plan, every 5 years, from the department of environmental quality in accordance with 75-10-111;

(iii) annual orphan share reports from the department of environmental quality in accordance with 75-10-743;

(iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;

(v) annual subdivision sanitation reports from the department of environmental quality in accordance with 76-4-116;

(vi) state trust land accessibility reports from the department of natural resources and conservation in accordance with 77-1-820;

(vii) biennial land banking reports and annual state land cabin and home site sales reports from the department of natural resources and conservation in accordance with 77-2-366;

(viii) biennially invasive species reports from the departments of fish, wildlife, and parks and natural resources and conservation in accordance with 80-7-1006;

(ix) annual upper Columbia conservation commission reports in accordance with 80-7-1026;

(x) annual invasive species council reports in accordance with 80-7-1203;

(xi) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;

(xii) annual sage grouse population reports from the department of fish, wildlife, and parks in accordance with 87-1-201;

(xiii) annual gray wolf management reports from the department of fish, wildlife, and parks in accordance with 87-1-901;

(xiv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in accordance with 87-2-702;

(xv) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in accordance with 87-5-807; and

(xvi) annual sage grouse oversight team activities and staffing reports in accordance with 87-5-918;

(j) reports to the water policy interim committee, including:

(i) drought and water supply advisory committee reports in accordance with 2-15-3308;

(ii) total maximum daily load reports from the department of environmental quality in accordance with 75-5-703;

(iii) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501;

(v) renewable resource grant and loan program reports from the department of natural resources and conservation in accordance with 85-1-621;

(vi) quarterly adjudication reports from the department of natural resources and conservation and the water court in accordance with 85-2-281;

(vii) water reservation reports from the department of natural resources and conservation in accordance with 85-2-316;

(viii) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-436; and

(ix) ground water investigation program reports from the bureau of mines and geology in accordance with 85-2-525;

(k) reports to the local government interim committee, including:

(i) sand and gravel, if an investigation is completed, in accordance with 82-2-701;

(ii) assistance to local governments on federal land management proposals from the department of commerce in accordance with 90-1-182; and

(iii) emergency financial assistance to local government reports from the department of commerce, if requests are made, in accordance with 90-6-703(2);

(l) reports to the state-tribal relations committee, including:

(i) reports from the missing indigenous persons review commission in accordance with 2-15-2018;

(ii) the Montana Indian language preservation program report from the state-tribal economic development commission in accordance with 20-9-537;

(iii) reports from the missing indigenous persons task force in accordance with 44-2-411

(iv) a decennial economic contributions and impacts of Indian reservations report from the department of commerce in accordance with 90-1-105;

(v) state-tribal economic development commission activities reports from the state-tribal economic development commission in accordance with 90-1-132; and

(vi) state-tribal economic development commission reports provided regularly by the state director of Indian affairs in accordance with 90-11-102.

(4) (a) Except as provided in subsections (4)(b) and (6) and unless otherwise required by law, a report made to the legislature in accordance with subsection (3) may be provided orally before September 1 of each year preceding the convening of a regular session of the legislature and in accordance with 5-11-210(1)(b).

(b) After receiving an oral report, an interim or administrative committee responsible for receiving the report may request a written report be filed with the legislature in accordance with 5-11-210(1)(a).

(c) This section may not be interpreted to preclude an interim or administrative committee from requesting additional information.

(5) Reports to the legislature include multistate compact and agreement reports including:

(a) multistate tax compact reports in accordance with 15-1-601;

(b) interstate compact on educational opportunity for military children reports in accordance with

20-1-230 and 20-1-231;

(c) compact for education reports in accordance with 20-2-501;

(d) Western regional higher education compact reports in accordance with 20-25-801;

(e) interstate insurance product regulation compact reports in accordance with 33-39-101;

(f) interstate medical licensure compact reports in accordance with 37-3-356;

(g) interstate compact on juveniles reports in accordance with 41-6-101;

(h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

(i) vehicle equipment safety compact reports in accordance with 61-2-201;

(j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

(k) western interstate nuclear compact reports in accordance with 90-5-201.

(6) Reports, transfers, statements, assessments, recommendations and changes required under 17-7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 20-7-101, 23-7-202, 33-1-115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports required in subsections (2)(a), ~~(2)(gg)~~ (2)(ff), ~~(2)(hh)~~ (2)(gg), and (3)(b)(ix) must be provided following issuance of reports issued under Title 5, chapter 13."

Section 2. Section 15-64-101, MCA, is amended to read:

"**15-64-101. Definitions.** As used in this part, the following definitions apply:

(1) "Adult-use dispensary" has the meaning provided in 16-12-102.

(2) "Customer" means a person to whom a sale of marijuana or a marijuana product is made.

~~(2)~~(3) "Department" means the department of revenue provided for in 2-15-1301.

~~(3)~~(4) "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.

~~(4)~~(5) "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana dispensary.

~~(5)~~(6) "Marijuana" has the meaning provided in 16-12-102.

~~(6)~~(7) "Marijuana product" has the meaning provided in 16-12-102.

~~(7)~~(8) "Medical marijuana dispensary" has the meaning provided in 16-12-102.

~~(8)~~(9) "Person" means an individual, firm, partnership, corporation, association, company, committee,

other group of persons, or other business entity, however formed.

~~(9) "Purchaser" means a person to whom a sale of marijuana or a marijuana product is made.~~

(10) "Retail price" means the established price for which an adult-use dispensary or medical marijuana dispensary sells marijuana or a marijuana product to a purchaser before any discount or reduction.

(11) "Sale" or "sell" means any transfer of marijuana or marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means."

Section 3. Section 16-12-102, MCA, is amended to read:

"**16-12-102. Definitions.** As used in this chapter, the following definitions apply:

(1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may:

(a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and

(b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.

(3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

(4) "Canopy" means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.

(6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

(7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

(a) is a natural person, an entity that is organized under the laws of and for which its principal

place of business is located in one of the states or territories of the United States or District of Columbia, or a publicly traded corporation, and:

(i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;

(ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or

(iii) is otherwise in a position to control the marijuana business; or

(b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.

(8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction.

(9) "Cultivator" means a person licensed by the department to:

(a) plant, cultivate, grow, harvest, and dry marijuana; and

(b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(10) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder.

(11) "Department" means the department of revenue provided for in 2-15-1301.

(12) (a) "Employee" means an individual employed to do something for the benefit of an employer.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net profits or net worth of the entity in which the interest is held.

(b) The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance but does include holders of private loans or convertible securities.

(14) "Former medical marijuana licensee" means a person that was licensed by or had an application for licensure pending with the department of public health and human services to provide marijuana to individuals with debilitating medical conditions on ~~November 3, 2020~~ ~~April 27, 2021~~ DECEMBER 31, 2021.

(15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight.

(b) The term may include:

(i) a greenhouse;

(ii) a hoop house; or

(iii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

(16) "Licensed premises" means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

(17) "Licensee" means a person holding a state license issued pursuant to this chapter.

(18) "Local government" means a county, a consolidated government, or an incorporated city or town.

(19) "Manufacturer" means a person licensed by the department to convert or compound marijuana

into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or relabel marijuana products as allowed under this chapter.

(20) (a) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(b) The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(c) The term does not include a drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department under this chapter.

(22) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products.

(24) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer ~~by a means other than smoking~~. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates, including concentrates intended for use by smoking or vaping.

(25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

(26) "Mature marijuana plant" means a harvestable marijuana plant.

(27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a cardholder who is registered under Title 16, chapter 12, part 5.

(28) "Medical marijuana dispensary" means the location from which a registered cardholder may obtain marijuana or marijuana products.

(29) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.

(30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

(31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

(32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana business that is not otherwise a controlling beneficial owner or in control.

(33) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(34) "Qualified institutional investor" means:

(a) a bank or banking institution including any bank, trust company, member bank of the federal reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and doing business under the laws of this state, any other state, or the laws of the United States;

(b) a bank holding company as defined in 32-1-109;

(c) a company organized as an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to regulation or oversight by the insurance department of the office of the state auditor or a similar agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their capacity as such an insurance company;

(d) an investment company registered under section 8 of the federal Investment Company Act of 1940, as amended;

(e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income

Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

(f) a state or federal government pension plan; or

(g) any other entity identified by rule by the department.

(35) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(36) "Registry identification card" means a document issued by the department pursuant to 16-12-503 that identifies an individual as a registered cardholder.

(37) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this chapter if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(38) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(39) "State laboratory" means the laboratory operated by the department of public health and human services to conduct environmental analyses.~~

~~(40)~~(39) "Testing laboratory" means a qualified person, licensed under this chapter that:

(a) provides testing of representative samples of marijuana and marijuana products; and

(b) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

~~(41)~~(40) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual.

(b) The term does not include the seeds, stalks, and roots of the plant. (Subsection (15)(b)(ii) terminates October 1, 2023--sec. 117(1), Ch. 576, L. 2021.)"

Section 4. Section 16-12-104, MCA, is amended to read:

"**16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter.

(2) (a) The department shall issue the following license types to persons who submit applications meeting the requirements of this chapter:

(i) cultivator license;

(ii) manufacturer license;

(iii) adult-use dispensary license or a medical marijuana dispensary license;

(iv) testing laboratory license.

(v) marijuana transporter license.

(vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

(3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

(4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

(5) The department shall assess applications for licensure or renewal to determine if an applicant, controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria established in this chapter for denial of a license.

(6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in rule by the department.

(7) (a) The department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

(i) within 60 days of receiving the application or renewal and all related application materials from a former medical marijuana licensee or an existing licensee under this chapter; and

(ii) within 120 days of receiving the application and all related application materials from a new applicant.

(b) If the department fails to act on a completed application within the time allowed under subsection (7)(a), the department shall:

(i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a licensee seeking renewal of a license by 5% each week that the application is pending; and

(ii) allow a licensee to continue operation until the department takes final action.

(c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.

(d) The department shall issue a license or endorsement within 5 days of approving an application or renewal.

(8) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) Licenses issued under this chapter must be renewed annually.

(10) (a) The department shall provide the names and phone numbers of persons, including the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (10)(b), the department may not disclose the physical location or address of a marijuana business.

(b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal.

(c) The name of a controlling beneficial owner is not considered confidential information as defined in 2-6-1002.

(11) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee operating in compliance with the requirements of this chapter from operating at a shared location with a medical

marijuana dispensary.

(12) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than government-issued identification to determine the consumer's age. A licensee that scans a person's driver's license using an electronic reader to determine the person's age:

(a) may only use data or metadata from the scan determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department.

(13) (a) Except as provided in subsection (13)(b), licenses issued by the department under this chapter are nontransferable.

(b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business.

(14) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner unless the licensee notifies, in writing, the department of the proposed transaction and the department determines that the person qualifies for ownership under the provisions of this chapter."

Section 5. Section 16-12-106, MCA, is amended to read:

"**16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government for a person who is 21 years of age or older or a registered cardholder:

(a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or older or a registered cardholder, 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(c) in or on the grounds of a private residence, possessing, planting, or cultivating up to two mature marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered cardholder, and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:

(i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place;

(ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be cultivated in or on the grounds of a single private residence simultaneously;

(iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and

(iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana products for personal use may be shared with, rented, or leased to a marijuana business;

(d) assisting another person who is at least 21 years of age or a registered cardholder, in any of the acts permitted by this section, including allowing another person to use one's personal residence for any of the acts described in this section; and

(e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia relating to marijuana.

(2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for that

activity by the department, is subject to a civil fine not exceeding $50.

(5) For a person who is under 21 years of age and is not a registered cardholder, possession, use, delivery without consideration, or distribution without consideration of marijuana is punishable in accordance with 45-5-624.

(6) For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and 8 hours of drug education or counseling.

(7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

(a) for a first violation, the person's choice between a civil fine not exceeding $200 or completing up to 4 hours of community service in lieu of the fine;

(b) for a second violation, the person's choice between a civil fine not exceeding $300 or completing up to 6 hours of community service in lieu of the fine; and

(c) for a third or subsequent violation, the person's choice between a civil fine not exceeding $500 or completing up to 8 hours of community service in lieu of the fine.

(8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this chapter.

(9) A person may not be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by this chapter."

Section 6. Section 16-12-108, MCA, is amended to read:

"**16-12-108. Limitations of act.** (1) This chapter does not permit:

(a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana products;

(b) consumption of marijuana or marijuana products while operating or being in physical control of

a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(c) smoking or consuming marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(d) delivery or distribution of marijuana or marijuana products, with or without consideration, to a person under 21 years of age, unless the person is a registered cardholder;

(e) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of age, unless the person is a registered cardholder;

(f) possession or transport of marijuana or marijuana products by a person under 21 years of age unless the underage person is a registered cardholder or is at least 18 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work activities;

(g) possession or consumption of marijuana or marijuana products or possession of marijuana paraphernalia:

(i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in 20-5-402;

(ii) in a school bus ~~or other form of public transportation~~;

(iii) in a health care facility as defined in 50-5-101; or

(iv) on the grounds of any correctional facility; ~~or~~

~~(v) in a hotel or motel room;~~

(h) using marijuana or marijuana products in a location where smoking tobacco is prohibited;

(i) smoking marijuana in a hotel or motel room, except for a hotel or motel room that is designated as a smoking room and rented to a guest;

~~(i)~~(j) consumption of marijuana or marijuana products:

(i) in a public place, except as allowed by the department; or

(ii) on trains, buses, or other forms of public transportation.

~~(j)~~(k) conduct that endangers others;

~~(k)~~(l) undertaking any task while under the influence of marijuana or marijuana products if doing so would constitute negligence or professional malpractice; or

~~(l)~~(m) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

(2) (a) A violation of subsections (1)(g)(i) through (1)(g)(iii) and (1)(h) through (1)(j) is subject to the penalties provided for in 50-40-115.

(b) In addition to the penalties provided for in 50-40-115, a person in violation of subsection (1)(g)(iv) may be subject to administrative action by the department of corrections and the department of justice, and a violation of subsection (1)(g)(iv) may be subject to the penalties provided for in 45-7-307.

(c) A violation of subsection (1)(m) is subject to the penalties provided for in 45-9-110(3).

~~(2)~~(3) A person may not cultivate marijuana in a manner that is visible from the street or other public area.

~~(3)~~(4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

~~(4)~~(5) Nothing in this chapter may be construed to:

(a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;

(b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana or marijuana products;

(c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or marijuana products while working;

(d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(e) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

~~(5)~~(6) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages,

except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding.

~~(6)~~(7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the department under Title 15 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

~~(7)~~(8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the conduct of consumers, licensees, and registered cardholders."

Section 7. Section 16-12-109, MCA, is amended to read:

"**16-12-109. Unlawful conduct by licensees -- penalties.** (1) If the department has reasonable cause to believe that a licensee has violated a provision of this chapter or a rule of the department, it may, in its discretion and in addition to any other penalties prescribed:

(a) reprimand a licensee;

(b) revoke the license of the licensee;

(c) suspend the license for a period of ~~not more than 3 months~~ up to 1 year;

(d) refuse to grant a renewal of the license after its expiration; or

(e) impose a civil penalty not to exceed $3,000.

(2) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

(a) compliance with the provisions of this chapter within the prior 3 years;

(b) the licensee has made good faith efforts to prevent a violation; or

(c) the licensee has cooperated in the investigation of the violation and the licensee or an employee or agent of the licensee accepts responsibility.

(3) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are:

(a) prior warnings about compliance problems;

(b) prior violations of the provisions of this chapter within the past 3 years;

(c) lack of written policies governing employee conduct;

(d) additional violations revealed during the course of the investigation;

(e) efforts to conceal a violation;

(f) intentional violations; or

(g) involvement of more than one patron or employee in a violation.

(4) For each licensing program regulated by the department under this chapter, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

(5) The department shall revoke and may not reissue a license or endorsement belonging to a person:

(a) whose controlling beneficial owner is an individual convicted of a felony drug offense;

(b) who allows another person not authorized or lawfully allowed to be in possession of the license;

(c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by federal law;

(d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing license;

(e) who purchases marijuana from an unauthorized source in violation of this chapter; or

(f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows or should know is under 21 years of age, unless the person is a registered cardholder.

(6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.

(7) (a) Review of a department action imposing a fine, suspension, or revocation under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision."

Section 8. Section 16-12-110, MCA, is amended to read:

"**16-12-110. Legislative monitoring.** (1) The economic affairs interim committee shall provide oversight of ~~the department's~~ activities pursuant to this chapter, including but not limited to monitoring of:

(a) the number of licensees;

(b) (i) the total square footage of canopy licensed in the state; and

(ii) the percentage of total canopy in production;

~~(b)~~(c) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; ~~and~~

~~(c)~~(d) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 16-12-105;

(e) the number of registered cardholders;

(f) the number and type of violations committed by registered cardholders, together with the penalties imposed on registered cardholders by the department; and

(g) laboratory testing procedures performed by the department in accordance with this chapter.

(2) The economic affairs interim committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-12-203 and 16-12-503. The report must include:

(i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;

(ii) the number and type of violations committed by licensees;

(iii) the number of licenses revoked; ~~and~~

(iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter;

(v) the number of applications for registry identification cards and the number of registered cardholders approved;

(vi) the nature of the debilitating medical conditions of the registered cardholders;

(vii) the number of registry identification cards revoked; and

(viii) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.

(b) The report may not provide ~~any identifying information of cultivators, manufacturers, and dispensaries except basic geographic or other statistical information~~ any identifying information of registered cardholders or physicians.

(4) The report on inspections required under 16-12-210 must include, at a minimum, the following information for both announced and unannounced inspections:

(a) the number of inspections conducted, by canopy licensure tier;

(b) the number of licensees that were inspected more than once during the year;

(c) the number of inspections that were conducted because of complaints made to the department; and

(d) the types of enforcement actions taken as a result of the inspections.

(5) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(6) Pursuant to 37-3-203, the board of medical examiners shall report annually in accordance with 5-11-210 to the economic affairs interim committee on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana."

Section 9. Section 16-12-125, MCA, is amended to read:

"**16-12-125. Hotline.** (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of this chapter.

(2) An individual making a complaint must be a resident and shall provide the individual's name, street address, and phone number.

(3) ~~(a)~~ The department shall provide a copy of the complaint to the person or licensee that is the subject of the complaint.

~~(b) The department may not redact the individual's name or city of residence from the complaint copy.~~

(4) The department may:

(a) investigate reports of suspected abuse of the provisions of this chapter; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring."

Section 10. Section 16-12-129, MCA, is amended to read:

"**16-12-129. Department to conduct background checks.** (1) In addition to any other requirement imposed under this chapter, before issuing any license under this chapter the department shall conduct:

(a) a fingerprint-based background check meeting the requirements for a fingerprint-based background check by the department of justice and the federal bureau of investigation in association with an application for initial licensure and every 5 years thereafter; and

(b) a name-based background check in association with an application for initial licensure and each year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based background check.

(2) For the purpose of the background records check required under subsection (1), the department shall obtain fingerprints from each individual listed on an application submitted under this chapter and each individual who has a controlling beneficial ownership or financial interest in the license or prospective license, including:

(a) each partner of an applicant that is a limited partnership;

(b) each member of an applicant that is a limited liability company;

(c) each director and officer of an applicant that is a corporation;

(d) each individual who holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; ~~and~~

(e) each individual who is a partner, member, director, or officer of a legal entity that holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; and

(f) a person designated by the applicant as responsible for operating the licensed establishment on behalf of the licensee.

~~(3) (a) Except as provided in subsection (3)(b), an employee of a marijuana business shall undergo a criminal background check prior to beginning employment.~~

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall undergo a criminal background check within 90 days of January 1, 2022.~~

~~(4)~~(3) The department may establish procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under this section."

Section 11. Section 16-12-201, MCA, is amended to read:

"**16-12-201. Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, the department may only accept applications from and issue licenses to former medical marijuana licensees that were licensed by or had an application pending with the department of public health and human services on ~~November 3, 2020~~ ~~April 27, 2021~~ DECEMBER 31, 2021, and are in good standing with the department and in compliance with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of January 1, 2022.

(b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after ~~July 1, 2023~~ July 1, 2025.

(2) (a) The department shall adopt rules to govern the operation of former medical marijuana licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate license under this chapter with a minimum of disruption to business operations.

(b) Beginning January 1, 2022, a former medical marijuana licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at the adult-use marijuana tax rate set forth in 15-64-102 under the licensee's existing license in a jurisdiction that

allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana licensee's next license renewal date, by which time the former medical licensee must have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is granted by the department.

(c) (i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2), "appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary license, and, if applicable, a manufacturer license.

(ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to registered cardholders is not required to obtain an adult-use dispensary license.

(3) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms may be prorated by the department."

Section 12. Section 16-12-202, MCA, is amended to read:

"**16-12-202. Testing laboratories -- licensing -- inspection ~~-- state laboratory responsibility~~.** (1) (a) A person who obtains a testing laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana as allowed by this chapter.

(b) A person who is a controlling beneficial owner of a testing laboratory or holds a financial interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing services are performed.

(2) (a) The ~~state laboratory~~ department shall endorse a testing laboratory to perform the testing required under 16-12-206 and 16-12-209 before a testing laboratory may apply for licensure or renewal with the department.

(b) (i) The ~~state laboratory~~ department shall inspect a testing laboratory before endorsing a testing laboratory for licensure or renewal and may not endorse a testing laboratory for licensure or renewal if the applicant does not meet the requirements of 16-12-206 and this section.

(ii) The ~~state laboratory~~ department may not issue a temporary license while an inspection is pending.

(3) An inspection conducted for licensure or renewal of a license must include a review of an applicant's or testing laboratory's:

(a) physical premises where testing will be conducted;

(b) instrumentation;

(c) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

(d) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

(e) vehicles used for transporting marijuana or marijuana product samples for testing purposes.

(4) ~~Upon~~ On receiving an endorsement from the ~~state laboratory~~ department for licensure or annual renewal, a testing laboratory must apply for licensure or renewal with the department by submitting to the department:

(a) the information required by 16-12-203; and

(b) a fee that the department shall establish by rule.

(5) The ~~state laboratory~~ department shall:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products;

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants; and

(c) establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that consumers and registered cardholders receive consistent and uniform information about the potency and quality of the marijuana and marijuana products they receive. The ~~state laboratory~~ department shall:

(i) consult with independent national or international organizations that establish testing standards for marijuana and marijuana products;

(ii) require testing laboratories to follow uniform standards and protocols for the samples accepted for testing and the processes used for testing the samples; and

(iii) track and analyze the raw data for the results of testing conducted by testing laboratories to

ensure that the testing laboratories are providing consistent and uniform results.

(6) The department may retain the services of the analytical laboratory provided by the department of agriculture pursuant to 80-1-104 for the testing contemplated in this section.

(7) If an analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the ~~state laboratory~~ department by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the ~~state laboratory~~ department may suspend the testing laboratory's license. A suspension must be based on rules adopted by the ~~state laboratory~~ department.

(9) The department shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent or misleading; or

(b) providing test results without having:

(i) the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or

(ii) the equipment required under this chapter to conduct the tests for which the laboratory is providing results.

(10) ~~A revocation under this section is subject to judicial review~~ (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for in this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (10)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision."

Section 13. Section 16-12-203, MCA, is amended to read:

"**16-12-203. Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory if the person submits to the department:

(i) the person's name, date of birth, and street address on a form prescribed by the department;

(ii) proof that the natural person having day-to-day operational control over the business is a Montana resident;

(iii) a statement, on a form prescribed by the department, that the person:

(A) will not divert to any other person the marijuana that the person cultivates or the marijuana products that the person manufactures for consumers or registered cardholders, unless the marijuana or marijuana products are sold to another licensee ~~as part of a sale of a business~~ as allowed under this section and by rules of the department; and

(B) has no pending citations for violations occurring under this chapter or the marijuana laws of any other state or jurisdiction;

(iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana products will be cultivated, manufactured, sold, or tested; and

(v) proof that the applicant has source of funding from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(A) is a person whose prior financial or other activities or criminal record:

(B) poses a threat to the public interest of the state;

(C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

(D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business.

(b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial ownership interest.

(c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the department the following:

(i) a complete and accurate organizational chart of the marijuana business disclosing the identity and ownership percentages of its controlling beneficial owners;

(ii) whether the applicant has ever filed for bankruptcy;

(iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

(iv) any financial interests held by the applicant in another marijuana business in any state;

(v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

(viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana business; and

(ix) any financial interest holder that holds two or more financial interests in the marijuana business or that is contributing over 50% of the operating capital of the marijuana business.

(d) The department may request that the marijuana business disclose each beneficial owner and affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded corporation.

(e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(g) This section does not restrict the department's ability to reasonably request information or records at renewal or as part of any other investigation following initial licensure of a marijuana business.

(h) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(2) The department may not license a person under this chapter if the person or an owner, including a person with a financial interest:

(a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under ~~16-12-524~~ 16-12-302 or of making a fraudulent representation under the former medical marijuana program administered by the department of public health and human services;

(d) is under 21 years of age;

(e) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;

(iii) stay out of default on a government-issued student loan;

(iv) pay child support; or

(v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a

government agency;

(f) has had a license issued under this chapter or a former medical marijuana license revoked within 3 years of the date of the application; or

(g) has resided in Montana for less than 1 year.

(3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless federal law otherwise allows for the interstate distribution of marijuana.

(4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or adult-use dispensary shall:

(a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to this chapter and administrative rules;

(b) allow the department to collect samples of marijuana or marijuana products during inspections of licensed premises for testing as provided by the department by rule; and

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 16-12-105.

(5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana products for use by consumers or registered cardholders only at one of the following locations:

(i) a property that is owned by the licensee; or

(ii) with written permission of the property owner filed with the department when applying for or renewing a license, a property that is rented or leased by the licensee.

(b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products or marijuana concentrate may be shared with or rented or leased to another licensee.

(c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises.

(6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this chapter and rules adopted by the department:

(a) may operate adult-use dispensaries;

(b) may engage in manufacturing; and

(c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

(7) A cultivator or manufacturer:

(a) may contract or otherwise arrange for another party that is licensed to process a cultivator's or manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or manufacturer for sale; and

(b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the required license and before the department has completed the inspection required under this chapter unless permitted to do so pursuant to 16-12-207."

Section 14. Section 16-12-206, MCA, is amended to read:

"**16-12-206. Testing laboratories -- licensing inspections.** (1) A testing laboratory may:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products; and

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested.

(2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. A scientific director must have the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

(3) All owners and employees of a testing laboratory shall submit fingerprints to the department to facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.

(4) To qualify for licensure, a testing laboratory shall demonstrate that:

(a) staff members are proficient in operation of the laboratory equipment; and

(b) the laboratory:

(i) maintains the equipment and instrumentation required by rule;

(ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance testing requirements established by rule, including the ability to certify results at the required level of sensitivity;

(iii) meets insurance and bonding requirements established by rule;

(iv) has the capacity and ability to serve rural areas of the state; and

(v) has passed a proficiency program approved by the ~~state laboratory~~ department that demonstrates it is able to meet all testing requirements.

(5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of:

(a) samples of marijuana and marijuana products submitted by cultivators and manufacturers pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;

(b) samples of marijuana or marijuana products collected by the department during inspections of licensed premises; and

(c) samples submitted by consumers or registered cardholders."

Section 15. Section 16-12-207, MCA, is amended to read:

"**16-12-207. Licensing as privilege -- criteria.** (1) A cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, combined-use marijuana license, marijuana transporter license, or any other license authorized under this chapter is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed licensed premises, including but not limited to cultivation centers, dispensaries, and manufacturing facilities.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary license, ~~or~~ medical marijuana license, or testing laboratory license if the applicant's proposed licensed premises:

(i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the department;

(ii) is not approved by local building, health, or fire officials as provided for in this chapter; or

(iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school, unless the locality requires a greater distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was established before the church, synagogue, or other place of worship or school or postsecondary school existed on the same street.

(b) For the purposes of this subsection (3), "school" and "postsecondary school" have the meanings provided in 20-5-402.

(4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder in a vehicle that is parked immediately outside the subject dispensary.

(5) A marijuana business may not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises.

(6) A marijuana business may not utilize the United States postal service or an alternative carrier other than a licensed marijuana transporter to transport, distribute, ship, or otherwise deliver marijuana or marijuana products.

(7) A marijuana business may not provide free marijuana or marijuana products or offer samples of marijuana or marijuana products.

(8) Marijuana or a marijuana product may not be given as a prize, premium, or consideration for a lottery, contest, game of chance, game of skill, or competition of any kind.

(9) (a) Except as provided in subsection (9)(c), an adult-use dispensary or medical marijuana dispensary must have a single, secured entrance for patrons and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance in accordance with department rule.

(b) Except as provided in subsection (9)(c), a marijuana business that is not an adult-use

dispensary or medical marijuana dispensary ~~must~~ shall implement security measures in accordance with department rule to deter and prevent the theft of marijuana and unauthorized entrance.

(c) The provisions of this subsection (9) do not supersede any state or local requirements relating to minimum numbers of points of entry or exit or any state or local requirements relating to fire safety.

(10) Each marijuana business shall install a video monitoring system that must, at a minimum:

(a) allow for the transmission and storage, by digital means, of a video feed that displays the interior and exterior of the cannabis establishment; and

(b) be capable of being recorded as prescribed by the department.

(11) An adult-use dispensary or medical marijuana dispensary may not operate between the hours of 8 p.m. and 9 a.m. daily.

(12) A person under 21 years of age is not permitted inside a marijuana business unless the person is an employee of the marijuana business or a registered cardholder."

Section 16. Section 16-12-208, MCA, is amended to read:

"**16-12-208. Restrictions.** (1) A cultivator or manufacturer may not cultivate marijuana or manufacture marijuana products in a manner that is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids.

(2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location other than the licensed premises approved by the department and within an enclosed area that is secured in a manner that prevents access by unauthorized persons.

(3) A licensee shall make the licensed premises, books, and records available to the department for inspection and audit under 16-12-210 during normal business hours.

(4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee.

(5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

(6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-resistant exit packaging that complies with federal child resistance standards and is designed to be significantly

difficult for children under 5 years of age to open and not difficult for adults to use properly.

(b) (i) Packaging of individual products may contain only the following design elements and language on a white label:

(A) the seller's business name and any accompanying logo or design mark;

(B) the name of the product; and

(C) the THC content or CBD content, health warning messages as provided in 16-12-215, and ingredients.

(ii) All packaging and outward labeling, including business logos and design marks, must also comply with any standards or criteria established by the department, including but not limited to allowable symbols and imagery.

(7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer hemp flower, hemp plants, or alcohol from a licensed premises.

(8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for ultimate sale to a consumer or registered cardholder, a licensee or license applicant shall submit both a package and a label application, in a form prescribed by the department, to receive approval from the department.

(b) The initial submission must be made electronically if required by the department. The licensee or license applicant shall submit a physical prototype upon request by the department.

(c) If a license applicant submits packages and labels for preapproval, final determination for packages and labels may not be made until the applicant has been issued a license.

(d) A packaging and label application must include:

(i) a fee provided for in rule by the department;

(ii) documentation that all exit packaging has been certified as child-resistant by a federally qualified third-party child-resistant package testing firm;

(iii) a picture or rendering of and description of the item to be placed in each package; and

(iv) for label applications for inhalable marijuana products that contain nonmarijuana additives:

(A) the nonmarijuana additive's list of ingredients; and

(B) in a form and manner prescribed by the department, information regarding the additive or

additives and the manufacturer of the additive or additives.

(9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified receptacle into which marijuana or marijuana products already within a container are placed at the retail point of sale."

Section 17. Section 16-12-209, MCA, is amended to read:

"**16-12-209. Testing of marijuana and marijuana products.** (1) A cultivator, manufacturer, adult-use dispensary, or medical marijuana dispensary may not sell marijuana or marijuana products until the marijuana or marijuana products have been tested by a testing laboratory and meet the requirements of this section. The licensee shall pay for the testing.

(2) A licensee shall submit material that has been collected in accordance with a sampling protocol established by the ~~state laboratory~~ department by rule. The protocol must address the division of marijuana and marijuana products into batch sizes for testing.

(3) The ~~state laboratory~~ department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

(a) the potency of the cannabinoids present; and

(b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The ~~state laboratory~~ department shall establish by rule the acceptable levels of moisture, pesticides, residual solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana products may contain.

(6) The testing laboratory shall:

(a) issue a certificate of analysis certifying the test results; and

(b) report the results to the seed-to-sale tracking system established pursuant to 16-12-105.

(7) A licensee may request that material that has failed to pass the required tests be retested in accordance with the rules adopted by the ~~state laboratory~~ department providing for retesting parameters and

requirements.

(8) Marijuana or a marijuana product must include a label indicating that the marijuana or marijuana product has been tested.

(9) (a) The department shall collect and, except as provided in subsection (9)(b), destroy samples of marijuana and marijuana products that fail to meet the acceptable levels to ensure product safety and consumer protection.

(b) If a sample fails due to THC levels in excess of the allowable limit and is not deficient in any other respect, the department may dispose of the sample by means other than destruction in accordance with rule.

(c) The department may contract for the duties under this subsection (9)."

Section 18. Section 16-12-210, MCA, is amended to read:

"**16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees.** (1) (a) The department shall conduct unannounced inspections of licensed premises.

(b) The department may not conduct more than two unannounced inspections of a licensed premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or there is other just and reasonable cause.

(2) (a) The department shall inspect annually each premises operated by a licensee.

(b) The department may collect samples during the inspection of a licensed premises and submit the samples to a testing laboratory ~~or the state laboratory~~ or the analytical laboratory authorized by 80-1-104 for testing as provided by the department by rule.

(3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with consumers and registered cardholders. The records must be open for inspection by the department ~~or state laboratory, as appropriate,~~ and state or local law enforcement agencies.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with a licensee; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana products.

(c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies.

(d) The department may require a licensee to furnish information that the department considers necessary for the proper administration of this chapter.

(4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of a licensed premises consists of a locked area, the licensee shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.

(5) The department may not hire or contract with a person to be an inspector if the person, during the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former medical marijuana licensee.

(6) In addition to any other penalties provided under this chapter, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

(c) noncompliance with any provision of this chapter.

(7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances.

(8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance,

rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this chapter.

(10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under 16-12-110."

Section 19. Section 16-12-222, MCA, is amended to read:

"**16-12-222. Licensing of marijuana transporters.** (1) (a) A marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of marijuana and marijuana products. A marijuana transporter license is valid for 2 years. A licensed marijuana transporter is responsible for the marijuana and marijuana products ~~once~~ after it takes control of the marijuana or marijuana product.

(b) A marijuana transporter may contract with multiple licensed marijuana businesses.

(c) ~~On or after March 1, 2022, and except~~ Except as otherwise provided in this section, all persons who transport marijuana or marijuana products ~~shall~~ must hold a valid marijuana transporter license. ~~The department shall begin accepting applications on or after January 1, 2022. The department may allow for a reasonable grace period for complying with this requirement.~~

(d) The department shall establish by rule the requirements for licensure and the applicable fee for a marijuana transporter license or the renewal of a transporter license. The department may not license a person to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license under 16-12-203(2).

(2) A person who is not licensed under this chapter ~~must~~ shall apply for and obtain a marijuana

transporter license in order to transport marijuana or marijuana products.

(3) A registered cardholder or consumer is not required to possess a marijuana transporter license when purchasing marijuana or marijuana products at a dispensary.

(4) A person who obtains a cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, or testing laboratory license or is an employee of one of those licensees, may:

(a) transport marijuana or marijuana products between other licensed premises without a transporter license so long as the transportation:

(i) complies with rules implementing the seed-to-sale tracking system set forth in 16-12-105; and

(ii) includes a printed manifest containing information as required by the department; and

(b) deliver marijuana from a dispensary to a registered cardholder provided that the person delivering the marijuana or marijuana products:

(i) complies with rules adopted by the department; and

(ii) includes a printed delivery manifest from a dispensary to a registered cardholder containing the registered cardholder's address and cardholder number and the dispensary's address and license number.

(5) (a) A marijuana transporter licensee may maintain a licensed premises to temporarily store marijuana and marijuana products and to use as a centralized distribution point in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(b) The licensed premises must be located in a jurisdiction that permits the operation of a marijuana business and comply with rules adopted by the department.

(c) A marijuana transporter may store and distribute marijuana and marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a license under this chapter.

(6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products throughout the state.

(7) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or

registered cardholders only and may not make deliveries of marijuana or marijuana products to individual consumers.

(8) A person delivering marijuana or marijuana products for a marijuana transporter must possess a valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana transporter licensee."

Section 20. Section 16-12-223, MCA, is amended to read:

"**16-12-223. Licensing of cultivators.** (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility.

(b) Except as provided in subsection (6), the system ~~shall~~ must include, at a minimum, the following license types:

(i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities.

(vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities.

(vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor cultivation facilities.

(viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor cultivation facilities.

(ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor cultivation facilities.

(x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor cultivation facilities.

(xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor cultivation facilities.

(xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor cultivation facilities.

(xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor cultivation facilities.

(c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(d) When evaluating an initial or renewal license application, the department shall evaluate each proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

(e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application by demonstrating that:

(A) the cultivator is using the full amount of canopy currently authorized;

(B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

(C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by

only one tier at a time.

(iii) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, a cultivator may, at any time, increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B).

(iv) The department shall conduct an inspection of the cultivator's registered premises and proposed premises within 30 days of receiving the application and before approving the application.

(f) A marijuana business that has not been issued a license before ~~July 1, 2023~~ July 1, 2025, must be initially licensed at a tier 2 canopy license or lower.

(2) The department is authorized to create additional tiers as necessary.

(3) The department may adopt rules:

(a) for inspection of proposed indoor cultivation facilities under subsection (1);

(b) for investigating owners or applicants for a determination of financial interest; and

(c) in consultation with the department of agriculture and based on well-supported science, to require licensees to adopt practices consistent with the prevention, introduction, and spread of insects, diseases, and other plant pests into Montana.

(4) Initial licensure and annual fees for these licensees are:

(a) $1,000 for a cultivator with a micro tier canopy license;

(b) $2,500 for a cultivator with a tier 1 canopy license;

(c) $5,000 for a cultivator with a tier 2 canopy license;

(d) $7,500 for a cultivator with a tier 3 canopy license;

(e) $10,000 for a cultivator with a tier 4 canopy license;

(f) $13,000 for a cultivator with a tier 5 canopy license;

(g) $15,000 for a cultivator with a tier 6 canopy license;

(h) $17,500 for a cultivator with a tier 7 canopy license;

(i) $20,000 for a cultivator with a tier 8 canopy license;

(j) $23,000 for a cultivator with a tier 9 canopy license;

(k) $27,000 for a cultivator with a tier 10 canopy license;

(l) $32,000 for a cultivator with a tier 11 canopy license; and

(m) $37,000 for a cultivator with a tier 12 canopy license.

(5) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

(6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation."

Section 21. Section 16-12-225, MCA, is amended to read:

"**16-12-225. Combined-use marijuana licensing -- requirements.** (1) The department may issue a total of eight combined-use marijuana licenses to entities that are:

(a) a federally recognized tribe located in the state; or

(b) a business entity that is majority-owned by a federally recognized tribe located in the state.

(2) A combined-use marijuana license consists of one ~~tier 1~~ canopy license and one dispensary license allowing for the operation of a dispensary. ~~Cultivation and dispensary facilities must be located at the same licensed premises.~~

(3) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on land that is located~~:~~

~~(a) within 150 air-miles of the exterior boundary of the associated tribal reservation or, for the Little Shell Chippewa tribe only, within 150 air-miles of the tribal service area; and~~

~~(b)~~ in a county that has satisfied the local government approval provisions in 16-12-301 if the majority of voters in the county voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(4) An applicant under this section must satisfy all licensing requirements under this chapter and is subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products provided for in this chapter.

(5) A license granted under this section must be operated in compliance with all requirements imposed under this chapter.

(6) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe or another majority-owned business of that tribe may not obtain another combined-use license until the prior

license is relinquished, lapses, or is revoked by the department."

Section 22. Section 16-12-226, MCA, is amended to read:

"**16-12-226. Marijuana worker permit -- requirements.** (1) A marijuana worker permit is required for an employee who performs work for or on behalf of a marijuana business if the individual participates in any aspect of the marijuana business.

(2) ~~(a) Except as provided in subsection (2)(b), a~~ A marijuana business may not allow an employee to perform any work at the licensed premises until it has verified that the employee has obtained a valid marijuana worker permit issued in accordance with this chapter.

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall obtain a marijuana worker permit within 90 days of January 1, 2022.~~

(3) An applicant for a marijuana worker permit shall submit:

(a) an application on a form prescribed by the department with information including the applicant's:

(i) name;

(ii) mailing address;

(iii) date of birth;

(iv) signature; and

(v) response to conviction history questions requested by the department;

(b) a copy of a driver's license or identification card issued by one of the fifty states in the United States or a passport;

(c) annual proof of having passed training that includes identification, prevention, and reporting for human trafficking, rules and regulations for legal sales of marijuana in Montana, and any other training required by the department; and

(d) a fee established by the department.

(4) (a) Except as provided in subsection (4)(b), an application that does not contain the elements set forth in subsection (3) is incomplete.

(b) The department may review an application prior to receiving the fee but may not issue a permit

until the fee is received.

(5) The department shall deny an initial or renewal application if the applicant:

(a) is not 18 years of age or older;

(b) has had a marijuana license or worker permit revoked for a violation of this chapter or any rule adopted under this chapter within 2 years of the date of the application;

(c) has violated any provision of this chapter; or

(d) makes a false statement to the department.

(6) An employee of a licensee shall carry the employee's worker permit at all times when performing work on behalf of a marijuana business.

(7) A person who holds a marijuana worker permit ~~must~~ shall notify the ~~department~~ person's employer in writing within 10 days of:

(a) a conviction for a felony;

(b) the issuance of any citation for violating a marijuana law imposed under this chapter or the marijuana laws of any other state; or

(c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor."

Section 23. Section 16-12-301, MCA, is amended to read:

"**16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until:

(i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection (3) or (4); and

(ii) the business is licensed by the department pursuant to this chapter.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through

(6).

(c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with ~~the department of public health and human services and~~ the department.

(d) For the purpose of this section, the marijuana business categories that must be approved by a local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may operate are:

(i) cultivator;

(ii) manufacturer;

(iii) medical marijuana dispensary, except as provided in subsection (1)(b);

(iv) adult-use dispensary;

(v) combined-use marijuana licensee;

(vi) testing laboratory; and

(vii) marijuana transporter facility.

(e) Marijuana businesses located in counties in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government approval process under subsections (3) through (6).

(2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary is exempt from complying with any local governmental regulations that are adopted under this

subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the expiration of any grace period granted by the locality, whichever is later.

(3) An election regarding whether to approve any or all of the marijuana business categories listed in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137 by:

(a) the qualified electors of a county; or

(b) the qualified electors of a municipality.

(4) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed in accordance with Title 13, chapter 1, part 4.

(b) An election pursuant to this section may be held in conjunction with a regular election of the governing body, general election, or a regular local or special election.

(5) If the qualified electors of a county vote to approve a type of marijuana business to be located in the jurisdiction, the governing body shall enter the approval into the records of the local government and notify the department of the election results.

(6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census:

(i) it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana business from being located in the municipality; and

(ii) the county shall conduct the election in a manner that separates the votes in the municipality from those in the remaining parts of the county.

(b) If a majority of the qualified electors in the county, including the qualified electors in the municipality, vote to approve a category of marijuana business to be located in the county, the county may allow that category of marijuana business to operate in the county.

(c) (i) If a majority of the qualified electors in the municipality vote to approve a category of marijuana business to be located in the municipality, the municipality may allow that type of marijuana business to operate in the municipality.

(ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana

business from being located in the municipality, the municipality may not allow that type of marijuana business to operate in the municipality.

(d) Nothing contained in this subsection (6) prevents any municipality from having a separate election under the terms of this section.

(7) (a) A county or municipality that has voted to approve a category of marijuana business to be located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations within the jurisdiction.

(b) A vote overturning the approval of a category of marijuana business or prohibiting the previously permitted operation of marijuana businesses is effective on the 90th day after the local election is held.

(8) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this chapter."

Section 24. Section 16-12-302, MCA, is amended to read:

"**16-12-302. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is:

(a) a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory, or marijuana transporter or has a marijuana worker permit is guilty of a civil fine not to exceed $1,000; or

(b) a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

(2) An individual convicted under this section may not be licensed under this chapter.

(3) A physician who purposely and knowingly misrepresents any information required under 16-12-509 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both."

Section 25. Section 16-12-310, MCA, is amended to read:

"**16-12-310. Limit on local-option marijuana excise tax rate -- goods subject to tax.** (1) The rate of the local-option marijuana excise tax must be established by the election petition or resolution provided for in 16-12-311, and the rate may not exceed 3%.

(2) The local-option marijuana excise tax is a tax on the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary within a county.

(3) If a county imposes a local-option marijuana excise tax:

(a) 50% of the resulting tax revenue must be retained by the county;

(b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio of the population of ~~the~~ each city or town to the ~~total county~~ population of municipalities within the county; and

(c) the remaining 5% of the resulting tax revenue must be retained by the department to defray costs associated with administering 16-12-309 through 16-12-312 and 16-12-317. The funds retained by the department under this subsection (3)(c) must be deposited into the marijuana state special revenue account established under 16-12-111.

(4) For the purposes of this section, "tax revenue" means the combined taxes collected under any local-option marijuana excise tax collected on retail sales within the county."

Section 26. Section 16-12-311, MCA, is amended to read:

"**16-12-311. Local government excise tax-- election required -- procedure -- notice.** (1) A county that has permitted an adult-use dispensary or medical marijuana dispensary to operate within its borders pursuant to 16-12-301 or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election, may not impose or, except as provided in this section, amend or repeal a local-option marijuana excise tax unless the local-option marijuana excise tax question has been approved by a majority of the qualified electors voting on the question.

(2) The local-option marijuana excise tax question may be presented to the qualified electors of a county by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-135, and 7-5-137 or by a resolution of the governing body of the county.

(3) The petition or resolution referring the taxing question must state:

(a) the rate of the tax, which may not exceed 3% of the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary;

(b) the date when the tax becomes effective, which may not be earlier than 90 days after the election; and

(c) the purposes that may be funded by the tax revenue.

(4) On receipt of an adequate petition, the county's governing body shall hold an election in accordance with Title 13, chapter 1, part 5.

~~(5) (a) Before the local-option marijuana excise tax question is submitted to the electorate, the county shall provide notice of the goods subject to the local-option marijuana excise tax by a method described in 13-1-108.~~

~~(b) The notice must be given two times, with at least 6 days separating the notices. The first notice must be given not more than 45 days prior to the election, and the last notice must be given not less than 30 days prior to the election.~~

~~(6)~~(5) Notice of the election must be given as provided in 13-1-108 and include the information listed in subsection (3) of this section.

~~(7)~~(6) The question of the imposition of a local-option marijuana excise tax may not be placed before the qualified electors more than once in any fiscal year."

Section 27. Section 16-12-508, MCA, is amended to read:

"**16-12-508. Individuals with debilitating medical conditions -- requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through (5), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the individual's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement, on a form prescribed by the department, that the individual will not divert to any other individual the marijuana or marijuana products that the individual cultivates, manufactures, or obtains through the system of licensed providers for the individual's debilitating medical condition;

(f) the name of the individual's treating physician or referral physician and the street address and telephone number of the physician's office;

(g) the street address where the individual is cultivating marijuana or manufacturing marijuana products if the individual is cultivating marijuana or manufacturing marijuana products for the individual's own use; and

(h) the written certification and accompanying statements from the individual's treating physician or referral physician as required pursuant to 16-12-509.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana;

(ii) indicates whether the minor's custodial parent or legal guardian will be obtaining marijuana or marijuana products for the minor through the system of licensed dispensaries provided for in this chapter; and

(iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and

(C) agrees that the minor will use only marijuana products <u>intended for use by a means other than smoking</u> and will not smoke marijuana;

(c) if the parent or guardian will be serving as the minor's cultivator, undergoes background checks

in accordance with subsection (3). The parent or legal guardian shall pay the costs of the background check and may not obtain a license under this chapter if the parent or legal guardian does not meet the requirements set forth in this chapter.

(d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana purchased for the minor's use in a marijuana product.

(3) A parent serving as a minor's cultivator shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation upon the minor's initial application for a registry identification card and every 5 years after that. The department shall conduct a name-based background check in years when a fingerprint background check is not required.

(4) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 16-12-509 from a second physician in addition to the minor's treating physician or referral physician unless the minor's treating physician or referral physician is an oncologist, neurologist, or epileptologist.

(5) An individual may not be a registered cardholder if the individual is in the custody of or under the supervision of the department of corrections or a youth court."

Section 28. Section 20-1-220, MCA, is amended to read:

"**20-1-220. Use of marijuana and tobacco products in public school building or on public school property prohibited.** (1) An individual may not use a tobacco product, vapor product, marijuana product, or alternative nicotine product in a public school building or on public school property.

(2) (a) Subsection (1) does not apply to the use of a tobacco product, vapor product, marijuana product, or alternative nicotine product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product, vapor product, marijuana product, or alternative nicotine product.

(b) Subsection (1) does not apply to the use of a smoking cessation product by an employee.

(3) The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

(4) A violation of this section is subject to the penalties provided in 50-40-115.

(5) For the purposes of this section, the following definitions apply:

(a) "Alternative nicotine product" means a manufactured noncombustible product that contains nicotine derived from tobacco and that is intended for human consumption by being chewed, absorbed, dissolved, or ingested by any other means.

(b) (i) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer.

(ii) The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, marijuana concentrates, and marijuana intended for use by smoking or vaping.

~~(b)~~(c) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

(ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses.

~~(c)~~(d) "Tobacco product" means a substance intended for human consumption that contains tobacco, including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

~~(d)~~(e) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes:

(i) an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device; and

(ii) a vapor cartridge or other container in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product and device."

NEW SECTION. **Section 29. Repealer.** The following sections of the Montana Code Annotated are repealed:

16-12-524. Fraudulent representation -- penalties.

16-12-532. Legislative monitoring.

NEW SECTION. **Section 30. Appropriation.** ~~There~~ FOR THE BIENNIUM BEGINNING JULY 1, 2023, THERE is appropriated ~~$149,285.58~~ $405,788 from the marijuana state special revenue account provided for in 16-12-111 to the department of revenue, which comprises ~~2~~ 1.5 FTE transferred from the department of public health and human services to the department of revenue AND 0.5 NEW FTE FOR THE DEPARTMENT OF REVENUE FROM HOUSE BILL NO. 2.

NEW SECTION. **Section 31. Transition.** (1) The legislature directs the department of public health and human services to assist the department of revenue with the transfer of FTE, information, materials, and any other marijuana-related assets that the department of revenue considers necessary to implement the regulation of marijuana testing laboratories in the state and exercise authority over the regulation of marijuana testing laboratory licensees in the state.

(2) On July 1, 2023, the department of public health and human services shall transfer to the department of revenue the existing endorsements for any marijuana testing laboratory licensees. Existing endorsements transferred pursuant to this section must be accepted and administered by the department of revenue.

NEW SECTION. **Section 32. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

NEW SECTION. **Section 33. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2023.

(2) [Sections 3, 8, 11, 13, 20, and 21] and this section are effective on passage and approval.

(3) [Sections 12, 14, 15, 17, 18, ~~and~~ 23, AND 30] are effective July 1, 2023.

- END -

HOUSE BILL NO. 128

INTRODUCED BY J. KASSMIER

BY REQUEST OF THE ECONOMIC AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING MARIJUANA LAWS; REVISING REPORTS TO THE LEGISLATURE; CLARIFYING PERMISSIVE ACTS AND EXCEPTIONS FOR REGISTERED CARDHOLDERS; CLARIFYING LIMITATIONS OF THE MONTANA MARIJUANA REGULATION AND TAXATION ACT; CLARIFYING PENALTIES; REVISING PENALTIES FOR SUSPENDED LICENSES; COMBINING SECTIONS ON LEGISLATIVE MONITORING; CLARIFYING LEGISLATIVE MONITORING DUTIES; REMOVING THE IDENTITY DISCLOSURE REQUIREMENT FOR LICENSEE COMPLAINTS; REMOVING OUTDATED DATES; REMOVING THE BACKGROUND CHECK REQUIREMENT FOR CERTAIN INDIVIDUALS; EXTENDING THE MORATORIUM FOR NEW MARIJUANA LICENSES; TRANSFERRING AUTHORITY OVER MARIJUANA TESTING LABORATORIES; CLARIFYING THE MINIMUM AGE TO ENTER A MARIJUANA BUSINESS; CLARIFYING LEGISLATIVE INTENT ON A CULTIVATOR'S ABILITY TO INCREASE TIERS; REVISING REQUIREMENTS FOR A COMBINED-USE LICENSE; REVISING REPORTING REQUIREMENTS FOR EMPLOYEE CONVICTIONS OR VIOLATIONS; COMBINING SECTIONS ON FRAUDULENT REPRESENTATION; CLARIFYING THE FORMULA FOR MUNICIPAL TAX REVENUE ALLOCATION; REMOVING CONFLICTING NOTICE REQUIREMENTS; EXTENDING RULEMAKING AUTHORITY; REVISING DEFINITIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 5-11-222, 15-64-101, 16-12-102, 16-12-104, 16-12-106, 16-12-108, 16-12-109, 16-12-110, 16-12-125, 16-12-129, 16-12-201, 16-12-202, 16-12-203, 16-12-206, 16-12-207, 16-12-208, 16-12-209, 16-12-210, 16-12-222, 16-12-223, 16-12-225, 16-12-226, 16-12-301, 16-12-302, 16-12-310, 16-12-311, 16-12-508, AND 20-1-220, MCA; REPEALING SECTIONS 16-12-524 AND 16-12-532, MCA; AND PROVIDING EFFECTIVE DATES.”

WHEREAS, during the 2021-2022 interim, the Economic Affairs Interim Committee received testimony relating to the interpretation and implementation of the Montana Marijuana Regulation and Taxation Act; and

WHEREAS, specifically, the committee received testimony that section 16-12-223, MCA, allowed only

qualifying marijuana cultivator licensees to increase production tiers at the licensee's renewals and not at the licensee's discretion; and

WHEREAS, the committee disagreed with this interpretation and provided its analysis; and

WHEREAS, the issue was resolved to the committee's satisfaction; and

WHEREAS, this bill amends section 16-12-223, MCA, to remove all existing doubt whether the Legislature intended to allow a qualifying marijuana cultivator licensee to increase production tiers at their discretion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 5-11-222, MCA, is amended to read:

"**5-11-222. Reports to legislature.** (1) (a) Except as provided in ~~subsection~~ subsections (1)(b) and (6), a report to the legislature means a biennial report required by the legislature and filed in accordance with 5-11-210 on or before September 1 of each year preceding the convening of a regular session of the legislature.

(b) If otherwise specified in law, a report may be required more or less frequently than the biennial requirement in subsection (1)(a).

(2) Reports to the legislature include:

(a) annual reports on the unified investment program for public funds and public retirement systems and state compensation insurance fund assets audits from the board of investments in accordance with Article VIII, section 13, of the Montana constitution;

(b) federal mandates requirements from the governor in accordance with 2-1-407;

(c) activities of the state records committee in accordance with 2-6-1108;

(d) revenue studies from the director of revenue, if requested, in accordance with 2-7-104;

(e) legislative audit reports from the legislative audit division in accordance with 2-8-112 and 23-7-410;

(f) progress on gender and racial balance from the governor in accordance with 2-15-108;

(g) a mental health report from the ombudsman in accordance with 2-15-210;

(h) policies related to children and families from the interagency coordinating council for state

prevention in accordance with 2-15-225;

(i) watercourse name changes, if any, from the secretary of state in accordance with 2-15-401;

(j) results of programs established in 2-15-3111 through 2-15-3113 from the livestock loss board in accordance with 2-15-3113;

(k) the allocation of space report from the department of administration required in accordance with 2-17-101;

(l) information technology activities in accordance with 2-17-512;

(m) state strategic information technology plan exceptions, if granted, from the department of administration in accordance with 2-17-515;

(n) the state strategic information technology plan and biennial report from the department of administration in accordance with 2-17-521 and 2-17-522;

(o) reports from standing, interim, and administrative committees, if prepared, in accordance with 2-17-825 and 5-5-216;

(p) statistical and other data related to business transacted by the courts from the court administrator, if requested, in accordance with 3-1-702;

(q) the judicial standards commission report in accordance with 3-1-1126;

(r) an annual report on the actual cost of legislation that had a projected fiscal impact from the office of budget and program planning in accordance with 5-4-208;

(s) a link to annual state agency reports on grants awarded in the previous fiscal year established by the legislative finance committee in accordance with 5-12-208;

(t) reports prepared by the legislative fiscal analyst, and as determined by the analyst, in accordance with 5-12-302(4);

(u) a report, if necessary, on administrative policies or rules adopted under 5-11-105 that may impair the independence of the legislative audit division in accordance with 5-13-305;

(v) if a waste of state resources occurs, a report from the legislative state auditor, in accordance with 5-13-311;

(w) school funding commission reports each fifth interim in accordance with 5-20-301;

(x) a report of political committee operations conducted on state-owned property, if required, from

a political committee to the legislative services division in accordance with 13-37-404;

(y) a report concerning taxable value from the department of revenue in accordance with 15-1-205;

(z) a report on tax credits from the revenue interim committee in accordance with 15-30-2303;

(aa) semiannual reports on the Montana heritage preservation and development account from the Montana heritage preservation and development commission in accordance with 15-65-121;

(bb) general marijuana regulation reports and medical marijuana registry reports from the department of revenue in accordance with 16-12-110;

~~(cc) medical marijuana registry reports from the department of revenue in accordance with 16-12-532 (3);~~

~~(dd)~~(cc) annual reports on general fund and nongeneral fund encumbrances from the department of administration in accordance with 17-1-102;

~~(ee)~~(dd) loans or loan extensions authorized for two consecutive fiscal years from the department of administration and office of commissioner of higher education, including negative cash balances from the commissioner of higher education, in accordance with 17-2-107;

~~(ff)~~(ee) a report of local government entities that have balances contrary to limitations provided for in 17-2-302 or that failed to reduce the charge from the department of administration in accordance with 17-2-304;

~~(gg)~~(ff) an annual report from the board of investments in accordance with 17-5-1650(2);

~~(hh)~~(gg) a report on retirement system trust investments and benefits from the board of investments in accordance with 17-6-230;

~~(ii)~~(hh) recommendations for reductions in spending and related analysis, if required, from the office of budget and program planning in accordance with 17-7-140;

~~(jj)~~(ii) a statewide facility inventory and condition assessment from the department of administration in accordance with 17-7-202;

~~(kk)~~(jj) actuary reports and investigations for public retirement systems from the public employees' retirement board in accordance with 19-2-405;

~~(ll)~~(kk) a work report from the public employees' retirement board in accordance with 19-2-

407;

~~(mm)~~(ll) annual actuarial reports and evaluations from the teachers' retirement board in accordance with 19-20-201;

~~(nn)~~(mm) reports from the state director of K-12 career and vocational and technical education, as requested, in accordance with 20-7-308;

~~(oo)~~(nn) 5-year state plan for career and technical education reports from the board of regents in accordance with 20-7-330;

~~(pp)~~(oo) a gifted and talented students report from the office of public instruction in accordance with 20-7-904;

~~(qq)~~(pp) status changes for at-risk students from the office of public instruction in accordance with 20-9-328;

~~(rr)~~(qq) status changes for American Indian students from the office of public instruction in accordance with 20-9-330;

~~(ss)~~(rr) reports regarding the Montana Indian language preservation program from the office of public instruction in accordance with 20-9-537;

~~(tt)~~(ss) proposals for funding community colleges from the board of regents in accordance with 20-15-309;

~~(uu)~~(tt) expenditures and activities of the Montana agricultural experiment station and extension service, as requested, in accordance with 20-25-236;

~~(vv)~~(uu) reports, if requested by the legislature, from the president of each of the units of the higher education system in accordance with 20-25-305;

~~(ww)~~(vv) reports, if prepared by a public postsecondary institution, regarding free expression activities on campus in accordance with 20-25-1506;

~~(xx)~~(ww) reports from the Montana historical society trustees in accordance with 22-3-107;

~~(yy)~~(xx) state lottery reports in accordance with 23-7-202;

~~(zz)~~(yy) a report from the division of banking and financial institutions, if required, from the department of administration in accordance with 32-11-306;

~~(aaa)~~(zz) state fund reports, if required, from the commissioner in accordance with 33-1-115;

~~(bbb)~~(aaa) reports from the department of labor and industry in accordance with 39-6-101;

~~(ccc)~~(bbb) victim unemployment benefits reports from the department of labor and industry in accordance with 39-51-2111;

~~(ddd)~~(ccc) state fund business reports in accordance with 39-71-2363;

~~(eee)~~(ddd) risk-based capital reports, if required, from the state fund in accordance with 39-71-2375;

~~(fff)~~(eee) child custody reports from the office of the court administrator in accordance with 41-3-1004;

~~(ggg)~~(fff) reports of remission of fine or forfeiture, respite, commutation, or pardon granted from the governor in accordance with 46-23-316;

~~(hhh)~~(ggg) annual statewide public defender reports from the office of state public defender in accordance with 47-1-125;

~~(iii)~~(hhh) a trauma care system report from the department of public health and human services in accordance with 50-6-402;

~~(jjj)~~(iii) an older Montanans trust fund report from the department of public health and human services in accordance with 52-3-115;

~~(kkk)~~(jjj) Montana criminal justice oversight council reports in accordance with 53-1-216;

~~(lll)~~(kkk) medicaid block grant reports from the department of public health and human services in accordance with 53-1-611;

~~(mmm)~~(lll) reports on the approval and implementation status of medicaid section 1115 waivers in accordance with 53-2-215;

~~(nnn)~~(mmm) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

~~(ooo)~~(nnn) medicaid funding reports from the department of public health and human services in accordance with 53-6-110;

~~(ppp)~~(ooo) proposals regarding managed care for medicaid recipients, if required, from the department of public health and human services in accordance with 53-6-116;

~~(qqq)~~(ppp) suicide reduction plans from the department of public health and human services in

accordance with 53-21-1102;

~~(rrr)~~(qqq) a compliance and inspection report from the department of corrections in accordance with 53-30-604;

~~(sss)~~(rrr) emergency medical services grants from the department of transportation in accordance with 61-2-109;

~~(ttt)~~(sss) annual financial reports on the environmental contingency account from the department of environmental quality in accordance with 75-1-1101;

~~(uuu)~~(ttt) the Flathead basin commission report in accordance with 75-7-304;

~~(vvv)~~(uuu) a report from the land board, if prepared, in accordance with 76-12-109;

~~(www)~~(vvv) an annual state trust land report from the land board in accordance with 77-1-223;

~~(xxx)~~(www) a noxious plant report, if prepared, from the department of agriculture in accordance with 80-7-713;

~~(yyy)~~(xxx) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

~~(zzz)~~(yyy) reports on the allocation of renewable resources grants and loans for emergencies, if required, from the department of natural resources and conservation in accordance with 85-1-605;

~~(aaaa)~~(zzz) water storage projects from the governor's office in accordance with 85-1-704;

~~(bbbb)~~(aaaa) upper Clark Fork River basin steering committee reports, if prepared, in accordance with 85-2-338;

~~(cccc)~~(bbbb) upland game bird enhancement program reports in accordance with 87-1-250;

~~(dddd)~~(cccc) private land/public wildlife advisory committee reports in accordance with 87-1-269;

~~(eeee)~~(dddd) a future fisheries improvement program report from the department of fish, wildlife, and parks in accordance with 87-1-272;

~~(ffff)~~(eeee) license revenue recommendations from the department of fish, wildlife, and parks in accordance with 87-1-629;

~~(gggg)~~(ffff) land information data reports from the state library in accordance with 90-1-404;

~~(hhhh)~~(gggg) hydrocarbon and geology investigation reports from the bureau of mines and geology in accordance with 90-2-201;

~~(iiii)~~(hhhh) coal ash markets investigation reports from the department of commerce in accordance with 90-2-202;

~~(jjjj)~~(iiii) an annual report from the pacific northwest electric power and conservation planning council in accordance with 90-4-403;

~~(kkkk)~~(jjjj) community property-assessed capital enhancements program reports from the Montana facility finance authority in accordance with 90-4-1303;

~~(llll)~~(kkkk) veterans' home loan mortgage loan reports from the board of housing in accordance with 90-6-604;

~~(mmmm)~~(llll) matching infrastructure planning grant awards by the department of commerce in accordance with 90-6-703(3); and

~~(nnnn)~~(mmmm) treasure state endowment program reports from the department of commerce in accordance with 90-6-710;

(3) Reports to the legislature include reports made to an interim committee as follows:

(a) reports to the law and justice interim committee, including:

(i) findings of the domestic violence fatality review commission in accordance with 2-15-2017;

(ii) the report from the missing indigenous persons review commission in accordance with 2-15-2018;

(iii) reports from the department of justice and public safety officer standards and training council in accordance with 2-15-2029;

(iv) information on the Montana False Claims Act from the department of justice in accordance with 17-8-416;

(v) annual case status reports from the attorney general in accordance with 41-3-210;

(vi) office of court administrator reports in accordance with 41-5-2003;

(vii) statewide public safety communications system activities from the department of justice in accordance with 44-4-1606;

(viii) reports on the status of the crisis intervention team training program from the board of crime control in accordance with 44-7-110;

(ix) restorative justice grant program status and performance from the board of crime control in

accordance with 44-7-302;

(x) reports on offenders under supervision with new offenses or violations from the department of corrections in accordance with 46-23-1016;

(xi) supervision responses grid reports from the department of corrections in accordance with 46-23-1028;

(xii) statewide public defender reports and information from the office of state public defender in accordance with 47-1-125;

(xiii) every 5 years, a percentage change in public defender funding report from the legislative fiscal analyst in accordance with 47-1-125;

(xiv) every 5 years, statewide public defender reports on the percentage change in funding from the office of state public defender in accordance with 47-1-125; and

(xv) a report from the quality assurance unit from the department of corrections in accordance with 53-1-211;

(b) reports to the state administration and veterans' affairs interim committee, including:

(i) a report that includes information technology activities and additional information from the information technology board in accordance with 2-17-512 and 2-17-513;

(ii) a report from the capitol complex advisory council in accordance with 2-17-804;

(iii) a report on the employee incentive award program from the department of administration in accordance with 2-18-1103;

(iv) a board of veterans' affairs report in accordance with 10-2-102;

(v) a report on grants to the Montana civil air patrol from the department of military affairs in accordance with 10-3-802;

(vi) annual reports on statewide election security from the secretary of state in accordance with 13-1-205;

(vii) a report regarding the youth voting program, if requested, from the secretary of state in accordance with 13-22-108;

(viii) a report from the commissioner of political practices in accordance with 13-37-120;

(ix) a report on retirement system trust investments from the board of investments in accordance

with 17-6-230;

(x) actuarial valuations and other reports from the public employees' retirement board in accordance with 19-2-405 and 19-3-117;

(xi) actuarial valuations and other reports from the teachers' retirement board in accordance with 19-20-201 and 19-20-216;

(xii) a report on the reemployment of retired members of the teachers' retirement system from the teachers' retirement board in accordance with 19-20-732; and

(xiii) changes, if any, affecting filing-office rules under the Uniform Commercial Code from the secretary of state in accordance with 30-9A-527;

(c) reports to the children, families, health, and human services interim committee, including:

(i) performance data from the department of public health and human services in accordance with 2-15-2225;

(ii) quarterly reports on data requirements from the department of public health and human services in accordance with 5-12-303;

(iii) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(iv) Montana HELP Act workforce development reports from the department of public health and human services in accordance with 39-12-103;

(v) annual reports from the child and family ombudsman in accordance with 41-3-1211;

(vi) reports on activities and recommendations on child protective services activities, if required, from the child and family ombudsman in accordance with 41-3-1215;

(vii) reports on the out-of-state placement of high-risk children with multiagency service needs from the department of public health and human services in accordance with 52-2-311;

(viii) private alternative adolescent residential and outdoor programs reports from the department of public health and human services in accordance with 52-2-803;

(ix) an annual Montana parents as scholars program report from the department of public health and human services in accordance with 53-4-209;

(x) provider rate, medicaid waiver, or medicaid state plan change reports from the department of public health and human services in accordance with 53-6-101;

(xi) a report concerning mental health managed care services, if managed care is in place, from the advisory council in accordance with 53-6-710;

(xii) quarterly medicaid reports related to expansion from the department of public health and human services in accordance with 53-6-1325;

(xiii) annual Montana developmental center reports from the department of public health and human services in accordance with 53-20-225; and

(xiv) annual children's mental health outcomes from the department of public health and human services in accordance with 53-21-508;

(xv) suicide reduction plans from the department of public health and human services in accordance with 53-21-1102;

(d) reports to the economic affairs interim committee, including:

(i) the annual state compensation insurance fund budget from the board of directors in accordance with 5-5-223 and 39-71-2363;

(ii) general marijuana regulation reports from the department of revenue in accordance with 16-12-110(3);

(iii) medical marijuana registry reports from the department of revenue in accordance with ~~16-12-532(3)~~ 16-12-110;

(iv) annual reports on complaints against physicians certifying medical marijuana use from the board of medical examiners in accordance with ~~16-12-532(4)~~ 16-12-110(6);

(v) an annual report on the administrative rate required from the department of commerce from the Montana heritage preservation and development commission in accordance with 22-3-1002;

(vi) state fund reports from the insurance commissioner, if required, in accordance with 33-1-115;

(vii) risk-based capital reports, if required, from the state fund in accordance with 33-1-115 and 39-71-2375;

(viii) annual reinsurance reports from the Montana reinsurance association board required in accordance with 33-22-1308;

(ix) reports from the department of labor and industry concerning board attendance in accordance with 37-1-107;

(x) annual reports on physician complaints related to medical marijuana from the board of medical examiners in accordance with 37-3-203;

(xi) prescription drug registry reports from the board of pharmacy in accordance with 37-7-1514;

(xii) status reports on the special revenue account and fees charged as a funding source from the board of funeral service in accordance with 37-19-204;

(xiii) unemployment insurance program integrity act reports from the department of labor and industry in accordance with 39-15-706;

(xiv) status reports on the distressed wood products industry revolving loan program from the department of commerce in accordance with 90-1-503;

(e) reports to the education interim committee, including:

(i) reemployment of retired teachers, specialists, and administrators reports from the retirement board in accordance with 19-20-732;

(ii) a report on participation in the interstate compact on educational opportunity for military children in accordance with 20-1-231;

(iii) grow your own grant program reports from the commissioner of higher education in accordance with 20-4-601;

(iv) standards of accreditation proposals and economic impact statements from the board of public education in accordance with 20-7-101;

(v) advanced opportunity program reports from the board of public education in accordance with 20-7-1506;

(vi) progress on transformational learning plans from the board of public education in accordance with 20-7-1602;

(vii) budget amendments, if needed, from school districts in accordance with 20-9-161;

(viii) annual Montana resident student financial aid program reports from the commissioner of higher education in accordance with 20-26-105;

(ix) a historic preservation office report from the historic preservation officer in accordance with 22-3-423; and

(x) interdisciplinary child information agreement reports from the office of public instruction in

accordance with 52-2-211;

(f) reports to the energy and telecommunications interim committee, including:

(i) the high-performance building report from the department of administration in accordance with 17-7-214;

(ii) an annual report from the consumer counsel in accordance with 69-1-222;

(iii) annual universal system benefits reports from utilities, electric cooperatives, and the department of revenue in accordance with 69-8-402;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501; and

(v) geothermal reports from the Montana bureau of mines and geology in accordance with 90-3-1301;

(g) reports to the revenue interim committee, including:

(i) use of the qualified endowment tax credit report from the department of revenue in accordance with 15-1-230;

(ii) tax rates for the upcoming reappraisal cycle from the department of revenue in accordance with 15-7-111;

(iii) gray water property tax abatement usage reports from the department of revenue in accordance with 15-24-3211;

(iv) information about job growth incentive tax credits from the department of revenue in accordance with 15-30-2361;

(v) student scholarship contributions from the department of revenue in accordance with 15-30-3112;

(vi) tax havens from the department of revenue in accordance with 15-31-322;

(vii) media production tax credit economic impact reports from the department of commerce in accordance with 15-31-1011; and

~~(viii) medical marijuana registry reports from the department of revenue in accordance with 16-12-532 (5);~~

~~(ix) complaints against physicians certifying use of medical marijuana from the board of medical~~

~~examiners in accordance with 16-12-532 (5); and~~

~~(x)~~(viii) reports that actual or projected receipts will result in less revenue than estimated from the office of budget and program planning, if necessary, in accordance with 17-7-140;

(h) reports to the transportation interim committee, including:

(i) biodiesel tax refunds from the department of transportation in accordance with 15-70-433;

(ii) cooperative agreement negotiations from the department of transportation in accordance with 15-70-450;

(iii) an annual alternative project delivery contracting report from the department of transportation in accordance with 60-2-119; and

(iv) a special fuels inspection report from the department of transportation in accordance with 61-10-154;

(i) reports to the environmental quality council, including:

(i) compliance and enforcement reports required in accordance with 75-1-314;

(ii) the state solid waste management and resource recovery plan, every 5 years, from the department of environmental quality in accordance with 75-10-111;

(iii) annual orphan share reports from the department of environmental quality in accordance with 75-10-743;

(iv) Libby asbestos superfund oversight committee reports in accordance with 75-10-1601;

(v) annual subdivision sanitation reports from the department of environmental quality in accordance with 76-4-116;

(vi) state trust land accessibility reports from the department of natural resources and conservation in accordance with 77-1-820;

(vii) biennial land banking reports and annual state land cabin and home site sales reports from the department of natural resources and conservation in accordance with 77-2-366;

(viii) biennially invasive species reports from the departments of fish, wildlife, and parks and natural resources and conservation in accordance with 80-7-1006;

(ix) annual upper Columbia conservation commission reports in accordance with 80-7-1026;

(x) annual invasive species council reports in accordance with 80-7-1203;

(xi) sand and gravel reports, if an investigation is completed, in accordance with 82-2-701;

(xii) annual sage grouse population reports from the department of fish, wildlife, and parks in accordance with 87-1-201;

(xiii) annual gray wolf management reports from the department of fish, wildlife, and parks in accordance with 87-1-901;

(xiv) biennial Tendoy Mountain sheep herd reports from the department of fish, wildlife, and parks in accordance with 87-2-702;

(xv) wildlife habitat improvement project reports from the department of fish, wildlife, and parks in accordance with 87-5-807; and

(xvi) annual sage grouse oversight team activities and staffing reports in accordance with 87-5-918;

(j) reports to the water policy interim committee, including:

(i) drought and water supply advisory committee reports in accordance with 2-15-3308;

(ii) total maximum daily load reports from the department of environmental quality in accordance with 75-5-703;

(iii) state water plans from the department of natural resources and conservation in accordance with 85-1-203;

(iv) small-scale hydroelectric power generation reports from the department of natural resources and conservation in accordance with 85-1-501;

(v) renewable resource grant and loan program reports from the department of natural resources and conservation in accordance with 85-1-621;

(vi) quarterly adjudication reports from the department of natural resources and conservation and the water court in accordance with 85-2-281;

(vii) water reservation reports from the department of natural resources and conservation in accordance with 85-2-316;

(viii) instream flow reports from the department of fish, wildlife, and parks in accordance with 85-2-436; and

(ix) ground water investigation program reports from the bureau of mines and geology in accordance with 85-2-525;

(k) reports to the local government interim committee, including:

(i) sand and gravel, if an investigation is completed, in accordance with 82-2-701;

(ii) assistance to local governments on federal land management proposals from the department of commerce in accordance with 90-1-182; and

(iii) emergency financial assistance to local government reports from the department of commerce, if requests are made, in accordance with 90-6-703(2);

(l) reports to the state-tribal relations committee, including:

(i) reports from the missing indigenous persons review commission in accordance with 2-15-2018;

(ii) the Montana Indian language preservation program report from the state-tribal economic development commission in accordance with 20-9-537;

(iii) reports from the missing indigenous persons task force in accordance with 44-2-411

(iv) a decennial economic contributions and impacts of Indian reservations report from the department of commerce in accordance with 90-1-105;

(v) state-tribal economic development commission activities reports from the state-tribal economic development commission in accordance with 90-1-132; and

(vi) state-tribal economic development commission reports provided regularly by the state director of Indian affairs in accordance with 90-11-102.

(4) (a) Except as provided in subsections (4)(b) and (6) and unless otherwise required by law, a report made to the legislature in accordance with subsection (3) may be provided orally before September 1 of each year preceding the convening of a regular session of the legislature and in accordance with 5-11-210(1)(b).

(b) After receiving an oral report, an interim or administrative committee responsible for receiving the report may request a written report be filed with the legislature in accordance with 5-11-210(1)(a).

(c) This section may not be interpreted to preclude an interim or administrative committee from requesting additional information.

(5) Reports to the legislature include multistate compact and agreement reports including:

(a) multistate tax compact reports in accordance with 15-1-601;

(b) interstate compact on educational opportunity for military children reports in accordance with

20-1-230 and 20-1-231;

(c) compact for education reports in accordance with 20-2-501;

(d) Western regional higher education compact reports in accordance with 20-25-801;

(e) interstate insurance product regulation compact reports in accordance with 33-39-101;

(f) interstate medical licensure compact reports in accordance with 37-3-356;

(g) interstate compact on juveniles reports in accordance with 41-6-101;

(h) interstate compact for adult offender supervision reports in accordance with 46-23-1115;

(i) vehicle equipment safety compact reports in accordance with 61-2-201;

(j) multistate highway transportation agreement reports in accordance with 61-10-1101; and

(k) western interstate nuclear compact reports in accordance with 90-5-201.

(6) Reports, transfers, statements, assessments, recommendations and changes required under 17-7-138, 17-7-139, 17-7-140, 19-2-405, 19-2-407, 19-3-117, 19-20-201, 19-20-216, 20-7-101, 23-7-202, 33-1-115, and 39-71-2375 must be provided as soon as the report is published and publicly available. Reports required in subsections (2)(a), ~~(2)(gg)~~ (2)(ff), ~~(2)(hh)~~ (2)(gg), and (3)(b)(ix) must be provided following issuance of reports issued under Title 5, chapter 13."

Section 2. Section 15-64-101, MCA, is amended to read:

"**15-64-101. Definitions.** As used in this part, the following definitions apply:

(1) "Adult-use dispensary" has the meaning provided in 16-12-102.

(2) "Customer" means a person to whom a sale of marijuana or a marijuana product is made.

~~(2)~~(3) "Department" means the department of revenue provided for in 2-15-1301.

~~(3)~~(4) "Dispensary" means an adult-use dispensary or a medical marijuana dispensary.

~~(4)~~(5) "Licensee" means a licensee operating an adult-use dispensary or a medical marijuana dispensary.

~~(5)~~(6) "Marijuana" has the meaning provided in 16-12-102.

~~(6)~~(7) "Marijuana product" has the meaning provided in 16-12-102.

~~(7)~~(8) "Medical marijuana dispensary" has the meaning provided in 16-12-102.

~~(8)~~(9) "Person" means an individual, firm, partnership, corporation, association, company, committee,

other group of persons, or other business entity, however formed.

~~(9) "Purchaser" means a person to whom a sale of marijuana or a marijuana product is made.~~

(10) "Retail price" means the established price for which an adult-use dispensary or medical marijuana dispensary sells marijuana or a marijuana product to a purchaser before any discount or reduction.

(11) "Sale" or "sell" means any transfer of marijuana or marijuana products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means."

Section 3. Section 16-12-102, MCA, is amended to read:

"**16-12-102. Definitions.** As used in this chapter, the following definitions apply:

(1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may:

(a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and

(b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.

(2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person.

(3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended.

(4) "Canopy" means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

(5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale.

(6) "Control", "controls", "controlled", "controlling", "controlled by", and "under common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise.

(7) "Controlling beneficial owner" means a person that satisfies one or more of the following:

(a) is a natural person, an entity that is organized under the laws of and for which its principal

place of business is located in one of the states or territories of the United States or District of Columbia, or a publicly traded corporation, and:

(i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business;

(ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or

(iii) is otherwise in a position to control the marijuana business; or

(b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business.

(8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction.

(9) "Cultivator" means a person licensed by the department to:

(a) plant, cultivate, grow, harvest, and dry marijuana; and

(b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(10) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; or

(k) posttraumatic stress disorder.

(11) "Department" means the department of revenue provided for in 2-15-1301.

(12) (a) "Employee" means an individual employed to do something for the benefit of an employer.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(c) The term does not include a third party with whom a licensee has a contractual relationship.

(13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net profits or net worth of the entity in which the interest is held.

(b) The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance but does include holders of private loans or convertible securities.

(14) "Former medical marijuana licensee" means a person that was licensed by or had an application for licensure pending with the department of public health and human services to provide marijuana to individuals with debilitating medical conditions on ~~November 3, 2020~~ ~~April 27, 2021~~ ~~DECEMBER 31, 2021~~ NOVEMBER 3, 2020.

(15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight.

(b) The term may include:

(i) a greenhouse;

(ii) a hoop house; or

(iii) a similar structure that protects the plants from variable temperature, precipitation, and wind.

(16) "Licensed premises" means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms.

(17) "Licensee" means a person holding a state license issued pursuant to this chapter.

(18) "Local government" means a county, a consolidated government, or an incorporated city or town.

(19) "Manufacturer" means a person licensed by the department to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or relabel marijuana products as allowed under this chapter.

(20) (a) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

(b) The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(c) The term does not include a drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department under this chapter.

(22) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant.

(23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products.

(24) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer ~~by a means other than smoking~~. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates, including concentrates intended for use by smoking or vaping.

(25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

(26) "Mature marijuana plant" means a harvestable marijuana plant.

(27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a cardholder who is registered under Title 16, chapter 12, part 5.

(28) "Medical marijuana dispensary" means the location from which a registered cardholder may obtain marijuana or marijuana products.

(29) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind.

(30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association.

(31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

(32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana business that is not otherwise a controlling beneficial owner or in control.

(33) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

(34) "Qualified institutional investor" means:

(a) a bank or banking institution including any bank, trust company, member bank of the federal reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and doing business under the laws of this state, any other state, or the laws of the United States;

(b) a bank holding company as defined in 32-1-109;

(c) a company organized as an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to regulation or oversight by the insurance department of the office of the state auditor or a similar agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their capacity as such an insurance company;

(d) an investment company registered under section 8 of the federal Investment Company Act of 1940, as amended;

(e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee;

(f) a state or federal government pension plan; or

(g) any other entity identified by rule by the department.

(35) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.

(36) "Registry identification card" means a document issued by the department pursuant to 16-12-503 that identifies an individual as a registered cardholder.

(37) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this chapter if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

(38) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(39) "State laboratory" means the laboratory operated by the department of public health and human services to conduct environmental analyses.~~

~~(40)~~(39) "Testing laboratory" means a qualified person, licensed under this chapter that:

(a) provides testing of representative samples of marijuana and marijuana products; and

(b) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

~~(41)~~(40) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual.

(b) The term does not include the seeds, stalks, and roots of the plant. (Subsection (15)(b)(ii) terminates October 1, 2023--sec. 117(1), Ch. 576, L. 2021.)"

Section 4. Section 16-12-104, MCA, is amended to read:

"**16-12-104. Department responsibilities -- licensure.** (1) The department shall establish and

maintain a registry of persons who receive licenses under this chapter.

(2) (a) The department shall issue the following license types to persons who submit applications meeting the requirements of this chapter:

(i) cultivator license;

(ii) manufacturer license;

(iii) adult-use dispensary license or a medical marijuana dispensary license;

(iv) testing laboratory license.

(v) marijuana transporter license.

(vi) combined-use marijuana license.

(b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter.

(3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises.

(4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8.

(5) The department shall assess applications for licensure or renewal to determine if an applicant, controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria established in this chapter for denial of a license.

(6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in rule by the department.

(7) (a) The department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application:

(i) within 60 days of receiving the application or renewal and all related application materials from a former medical marijuana licensee or an existing licensee under this chapter; and

(ii) within 120 days of receiving the application and all related application materials from a new applicant.

(b) If the department fails to act on a completed application within the time allowed under subsection (7)(a), the department shall:

(i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a

licensee seeking renewal of a license by 5% each week that the application is pending; and

(ii) allow a licensee to continue operation until the department takes final action.

(c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules.

(d) The department shall issue a license or endorsement within 5 days of approving an application or renewal.

(8) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) Licenses issued under this chapter must be renewed annually.

(10) (a) The department shall provide the names and phone numbers of persons, including the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (10)(b), the department may not disclose the physical location or address of a marijuana business.

(b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal.

(c) The name of a controlling beneficial owner is not considered confidential information as defined in 2-6-1002.

(11) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee

operating in compliance with the requirements of this chapter from operating at a shared location with a medical marijuana dispensary.

(12) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than government-issued identification to determine the consumer's age. A licensee that scans a person's driver's license using an electronic reader to determine the person's age:

(a) may only use data or metadata from the scan determine the person's age;

(b) may not transfer or sell that data or metadata to another party; and

(c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department.

(13) (a) Except as provided in subsection (13)(b), licenses issued by the department under this chapter are nontransferable.

(b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business.

(14) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner unless the licensee notifies, in writing, the department of the proposed transaction and the department determines that the person qualifies for ownership under the provisions of this chapter."

Section 5. Section 16-12-106, MCA, is amended to read:

"**16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government for a person who is 21 years of age or older or a registered cardholder:

(a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800

milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or older or a registered cardholder, 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form;

(c) in or on the grounds of a private residence, possessing, planting, or cultivating up to two mature marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered cardholder, and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that:

(i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place;

(ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be cultivated in or on the grounds of a single private residence simultaneously;

(iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and

(iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana products for personal use may be shared with, rented, or leased to a marijuana business;

(d) assisting another person who is at least 21 years of age or a registered cardholder, in any of the acts permitted by this section, including allowing another person to use one's personal residence for any of the acts described in this section; and

(e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia relating to marijuana.

(2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding $250 and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for that activity by the department, is subject to a civil fine not exceeding $50.

(5) For a person who is under 21 years of age and is not a registered cardholder, possession, use, delivery without consideration, or distribution without consideration of marijuana is punishable in accordance with 45-5-624.

(6) For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and 8 hours of drug education or counseling.

(7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

(a) for a first violation, the person's choice between a civil fine not exceeding $200 or completing up to 4 hours of community service in lieu of the fine;

(b) for a second violation, the person's choice between a civil fine not exceeding $300 or completing up to 6 hours of community service in lieu of the fine; and

(c) for a third or subsequent violation, the person's choice between a civil fine not exceeding $500 or completing up to 8 hours of community service in lieu of the fine.

(8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this chapter.

(9) A person may not be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by this chapter."

Section 6. Section 16-12-108, MCA, is amended to read:

"**16-12-108. Limitations of act.** (1) This chapter does not permit:

(a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana products;

(b) consumption of marijuana or marijuana products while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(c) smoking or consuming marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(d) delivery or distribution of marijuana or marijuana products, with or without consideration, to a person under 21 years of age, unless the person is a registered cardholder;

(e) purchase, consumption, or use of marijuana or marijuana products by a person under 21 years of age, unless the person is a registered cardholder;

(f) possession or transport of marijuana or marijuana products by a person under 21 years of age unless the underage person is a registered cardholder or is at least 18 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work activities;

(g) possession or consumption of marijuana or marijuana products or possession of marijuana paraphernalia:

(i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in 20-5-402;

(ii) in a school bus ~~or other form of public transportation~~;

(iii) in a health care facility as defined in 50-5-101; or

(iv) on the grounds of any correctional facility; ~~or~~

~~(v) in a hotel or motel room;~~

(h) using marijuana or marijuana products in a location where smoking tobacco is prohibited;

(i) smoking marijuana in a hotel or motel room, except for a hotel or motel room that is designated as a smoking room and rented to a guest;

~~(i)~~(j) consumption of marijuana or marijuana products:

(i) in a public place, except as allowed by the department; or

(ii) on trains, buses, or other forms of public transportation.

~~(j)~~(k) conduct that endangers others;

~~(k)~~(l) undertaking any task while under the influence of marijuana or marijuana products if doing so

would constitute negligence or professional malpractice; or

~~(l)~~(m) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.

(2) (a) A violation of subsections (1)(g)(i) through (1)(g)(iii) and (1)(h) through (1)(j) is subject to the penalties provided for in 50-40-115.

(b) In addition to the penalties provided for in 50-40-115, a person in violation of subsection (1)(g)(iv) may be subject to administrative action by the department of corrections and the department of justice, and a violation of subsection (1)(g)(iv) may be subject to the penalties provided for in 45-7-307.

(c) A violation of subsection (1)(m) is subject to the penalties provided for in 45-9-110(3).

~~(2)~~(3) A person may not cultivate marijuana in a manner that is visible from the street or other public area.

~~(3)~~(4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

~~(4)~~(5) Nothing in this chapter may be construed to:

(a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property;

(b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana or marijuana products;

(c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or marijuana products while working;

(d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(e) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

~~(5)~~(6) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana

products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages, except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding.

~~(6)~~(7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the department under Title 15 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104.

~~(7)~~(8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the conduct of consumers, licensees, and registered cardholders."

Section 7. Section 16-12-109, MCA, is amended to read:

"**16-12-109. Unlawful conduct by licensees -- penalties.** (1) If the department has reasonable cause to believe that a licensee has violated a provision of this chapter or a rule of the department, it may, in its discretion and in addition to any other penalties prescribed:

(a) reprimand a licensee;

(b) revoke the license of the licensee;

(c) suspend the license for a period of ~~not more than 3 months~~ up to 1 year;

(d) refuse to grant a renewal of the license after its expiration; or

(e) impose a civil penalty not to exceed $3,000.

(2) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are:

(a) compliance with the provisions of this chapter within the prior 3 years;

(b) the licensee has made good faith efforts to prevent a violation; or

(c) the licensee has cooperated in the investigation of the violation and the licensee or an employee or agent of the licensee accepts responsibility.

(3) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating

circumstances are:

(a) prior warnings about compliance problems;

(b) prior violations of the provisions of this chapter within the past 3 years;

(c) lack of written policies governing employee conduct;

(d) additional violations revealed during the course of the investigation;

(e) efforts to conceal a violation;

(f) intentional violations; or

(g) involvement of more than one patron or employee in a violation.

(4) For each licensing program regulated by the department under this chapter, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

(5) The department shall revoke and may not reissue a license or endorsement belonging to a person:

(a) whose controlling beneficial owner is an individual convicted of a felony drug offense;

(b) who allows another person not authorized or lawfully allowed to be in possession of the license;

(c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by federal law;

(d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing license;

(e) who purchases marijuana from an unauthorized source in violation of this chapter; or

(f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows or should know is under 21 years of age, unless the person is a registered cardholder.

(6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation.

(7) (a) Review of a department action imposing a fine, suspension, or revocation under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution

under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision."

Section 8. Section 16-12-110, MCA, is amended to read:

"**16-12-110. Legislative monitoring.** (1) The economic affairs interim committee shall provide oversight of ~~the department's~~ activities pursuant to this chapter, including but not limited to monitoring of:

(a) the number of licensees;

(b) (i) the total square footage of canopy licensed in the state; and

(ii) the percentage of total canopy in production;

~~(b)~~(c) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; ~~and~~

~~(c)~~(d) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 16-12-105;

(e) the number of registered cardholders;

(f) the number and type of violations committed by registered cardholders, together with the penalties imposed on registered cardholders by the department; and

(g) laboratory testing procedures performed by the department in accordance with this chapter.

(2) The economic affairs interim committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

(3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-12-203 and 16-12-503. The report must include:

(i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter;

(ii) the number and type of violations committed by licensees;

(iii) the number of licenses revoked; ~~and~~

(iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter;

(v) the number of applications for registry identification cards and the number of registered cardholders approved;

(vi) the nature of the debilitating medical conditions of the registered cardholders;

(vii) the number of registry identification cards revoked; and

(viii) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided.

(b) The report may not provide ~~any identifying information of cultivators, manufacturers, and dispensaries except basic geographic or other statistical information~~ any identifying information of registered cardholders or physicians.

(4) The report on inspections required under 16-12-210 must include, at a minimum, the following information for both announced and unannounced inspections:

(a) the number of inspections conducted, by canopy licensure tier;

(b) the number of licensees that were inspected more than once during the year;

(c) the number of inspections that were conducted because of complaints made to the department; and

(d) the types of enforcement actions taken as a result of the inspections.

(5) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(6) Pursuant to 37-3-203, the board of medical examiners shall report annually in accordance with 5-11-210 to the economic affairs interim committee on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana."

Section 9. Section 16-12-125, MCA, is amended to read:

"**16-12-125. Hotline.** (1) The department shall create and maintain a hotline to receive reports of

suspected abuse of the provisions of this chapter.

(2) An individual making a complaint must be a resident and shall provide the individual's name, street address, and phone number.

(3) ~~(a)~~ The department shall provide a copy of the complaint to the person or licensee that is the subject of the complaint.

~~(b) The department may not redact the individual's name or city of residence from the complaint copy.~~

(4) The department may:

(a) investigate reports of suspected abuse of the provisions of this chapter; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring."

Section 10. Section 16-12-129, MCA, is amended to read:

"**16-12-129. Department to conduct background checks.** (1) In addition to any other requirement imposed under this chapter, before issuing any license under this chapter the department shall conduct:

(a) a fingerprint-based background check meeting the requirements for a fingerprint-based background check by the department of justice and the federal bureau of investigation in association with an application for initial licensure and every 5 years thereafter; and

(b) a name-based background check in association with an application for initial licensure and each year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based background check.

(2) For the purpose of the background records check required under subsection (1), the department shall obtain fingerprints from each individual listed on an application submitted under this chapter and each individual who has a controlling beneficial ownership or financial interest in the license or prospective license, including:

(a) each partner of an applicant that is a limited partnership;

(b) each member of an applicant that is a limited liability company;

(c) each director and officer of an applicant that is a corporation;

(d) each individual who holds a 5% financial interest in the license applicant or is a controlling

beneficial owner of the person applying for the license; ~~and~~

(e) each individual who is a partner, member, director, or officer of a legal entity that holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; and

(f) a person designated by the applicant as responsible for operating the licensed establishment on behalf of the licensee.

~~(3) (a) Except as provided in subsection (3)(b), an employee of a marijuana business shall undergo a criminal background check prior to beginning employment.~~

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall undergo a criminal background check within 90 days of January 1, 2022.~~

~~(4)~~(3) The department may establish procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under this section."

Section 11. Section 16-12-201, MCA, is amended to read:

"**16-12-201. Licensing of cultivators, manufacturers, and dispensaries.** (1) (a) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, the department may only accept applications from and issue licenses to former medical marijuana licensees that were licensed by or had an application pending with the department of public health and human services on ~~November 3, 2020~~ ~~April 27, 2021~~ ~~DECEMBER 31, 2021~~ NOVEMBER 3, 2020, and are in good standing with the department and in compliance with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of January 1, 2022.

(b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after ~~July 1, 2023~~ July 1, 2025.

(2) (a) The department shall adopt rules to govern the operation of former medical marijuana licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate license under this chapter with a minimum of disruption to business operations.

(b) Beginning January 1, 2022, a former medical marijuana licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at

the adult-use marijuana tax rate set forth in 15-64-102 under the licensee's existing license in a jurisdiction that allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana licensee's next license renewal date, by which time the former medical licensee must have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is granted by the department.

(c) (i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2), "appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary license, and, if applicable, a manufacturer license.

(ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to registered cardholders is not required to obtain an adult-use dispensary license.

(3) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms may be prorated by the department."

Section 12. Section 16-12-202, MCA, is amended to read:

"**16-12-202. Testing laboratories -- licensing -- inspection ~~-- state laboratory responsibility~~.** (1) (a) A person who obtains a testing laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana as allowed by this chapter.

(b) A person who is a controlling beneficial owner of a testing laboratory or holds a financial interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing services are performed.

(2) (a) The ~~state laboratory~~ department shall endorse a testing laboratory to perform the testing required under 16-12-206 and 16-12-209 before a testing laboratory may apply for licensure or renewal with the department.

(b) (i) The ~~state laboratory~~ department shall inspect a testing laboratory before endorsing a testing laboratory for licensure or renewal and may not endorse a testing laboratory for licensure or renewal if the

applicant does not meet the requirements of 16-12-206 and this section.

(ii) The ~~state laboratory~~ department may not issue a temporary license while an inspection is pending.

(3) An inspection conducted for licensure or renewal of a license must include a review of an applicant's or testing laboratory's:

(a) physical premises where testing will be conducted;

(b) instrumentation;

(c) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;

(d) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and

(e) vehicles used for transporting marijuana or marijuana product samples for testing purposes.

(4) ~~Upon~~ On receiving an endorsement from the ~~state laboratory~~ department for licensure or annual renewal, a testing laboratory must apply for licensure or renewal with the department by submitting to the department:

(a) the information required by 16-12-203; and

(b) a fee that the department shall establish by rule.

(5) The ~~state laboratory~~ department shall:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products;

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants; and

(c) establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that consumers and registered cardholders receive consistent and uniform information about the potency and quality of the marijuana and marijuana products they receive. The ~~state laboratory~~ department shall:

(i) consult with independent national or international organizations that establish testing standards for marijuana and marijuana products;

(ii) require testing laboratories to follow uniform standards and protocols for the samples accepted for testing and the processes used for testing the samples; and

(iii) track and analyze the raw data for the results of testing conducted by testing laboratories to ensure that the testing laboratories are providing consistent and uniform results.

(6) The department may retain the services of the analytical laboratory provided by the department of agriculture pursuant to 80-1-104 for the testing contemplated in this section.

(7) If an analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the ~~state laboratory~~ department by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results.

(8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the ~~state laboratory~~ department may suspend the testing laboratory's license. A suspension must be based on rules adopted by the ~~state laboratory~~ department.

(9) The department shall revoke a testing laboratory's license upon a determination that the laboratory is:

(a) providing test results that are fraudulent or misleading; or

(b) providing test results without having:

(i) the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or

(ii) the equipment required under this chapter to conduct the tests for which the laboratory is providing results.

(10) ~~A revocation under this section is subject to judicial review~~ (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for in this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (10)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of

notice of the department's final decision."

Section 13. Section 16-12-203, MCA, is amended to read:

"**16-12-203. Licensing types -- requirements -- limitations -- activities.** (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory if the person submits to the department:

(i) the person's name, date of birth, and street address on a form prescribed by the department;

(ii) proof that the natural person having day-to-day operational control over the business is a Montana resident;

(iii) a statement, on a form prescribed by the department, that the person:

(A) will not divert to any other person the marijuana that the person cultivates or the marijuana products that the person manufactures for consumers or registered cardholders, unless the marijuana or marijuana products are sold to another licensee ~~as part of a sale of a business~~ as allowed under this section and by rules of the department; and

(B) has no pending citations for violations occurring under this chapter or the marijuana laws of any other state or jurisdiction;

(iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana products will be cultivated, manufactured, sold, or tested; and

(v) proof that the applicant has source of funding from a suitable source. A lender or other source of money or credit may be found unsuitable if the source:

(A) is a person whose prior financial or other activities or criminal record:

(B) poses a threat to the public interest of the state;

(C) poses a threat to the effective regulation and control of marijuana and marijuana products; or

(D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business.

(b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling

beneficial ownership interest.

(c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the department the following:

(i) a complete and accurate organizational chart of the marijuana business disclosing the identity and ownership percentages of its controlling beneficial owners;

(ii) whether the applicant has ever filed for bankruptcy;

(iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant;

(iv) any financial interests held by the applicant in another marijuana business in any state;

(v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner;

(vii) if the controlling beneficial owner is a natural person, the natural person's identifying information;

(viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana business; and

(ix) any financial interest holder that holds two or more financial interests in the marijuana business or that is contributing over 50% of the operating capital of the marijuana business.

(d) The department may request that the marijuana business disclose each beneficial owner and affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded corporation.

(e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the

department.

(f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department.

(g) This section does not restrict the department's ability to reasonably request information or records at renewal or as part of any other investigation following initial licensure of a marijuana business.

(h) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee.

(2) The department may not license a person under this chapter if the person or an owner, including a person with a financial interest:

(a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under ~~16-12-524~~ 16-12-302 or of making a fraudulent representation under the former medical marijuana program administered by the department of public health and human services;

(d) is under 21 years of age;

(e) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report;

(iii) stay out of default on a government-issued student loan;

(iv) pay child support; or

(v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;

(f) has had a license issued under this chapter or a former medical marijuana license revoked within 3 years of the date of the application; or

(g) has resided in Montana for less than 1 year.

(3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless federal law otherwise allows for the interstate distribution of marijuana.

(4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or adult-use dispensary shall:

(a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to this chapter and administrative rules;

(b) allow the department to collect samples of marijuana or marijuana products during inspections of licensed premises for testing as provided by the department by rule; and

(c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 16-12-105.

(5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana products for use by consumers or registered cardholders only at one of the following locations:

(i) a property that is owned by the licensee; or

(ii) with written permission of the property owner filed with the department when applying for or renewing a license, a property that is rented or leased by the licensee.

(b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products or marijuana concentrate may be shared with or rented or leased to another licensee.

(c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises.

(6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this chapter and rules adopted by the department:

(a) may operate adult-use dispensaries;

(b) may engage in manufacturing; and

(c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6).

(7) A cultivator or manufacturer:

(a) may contract or otherwise arrange for another party that is licensed to process a cultivator's or manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or manufacturer for sale; and

(b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the required license and before the department has completed the inspection required under this chapter unless permitted to do so pursuant to 16-12-207."

Section 14. Section 16-12-206, MCA, is amended to read:

"**16-12-206. Testing laboratories -- licensing inspections.** (1) A testing laboratory may:

(a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products; and

(b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested.

(2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. A scientific director must have the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

(3) All owners and employees of a testing laboratory shall submit fingerprints to the department to facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense.

(4) To qualify for licensure, a testing laboratory shall demonstrate that:

(a) staff members are proficient in operation of the laboratory equipment; and

(b) the laboratory:

(i) maintains the equipment and instrumentation required by rule;

(ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance testing requirements established by rule, including the ability to certify results at the required level of sensitivity;

(iii) meets insurance and bonding requirements established by rule;

(iv) has the capacity and ability to serve rural areas of the state; and

(v) has passed a proficiency program approved by the ~~state laboratory~~ department that demonstrates it is able to meet all testing requirements.

(5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of:

(a) samples of marijuana and marijuana products submitted by cultivators and manufacturers pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products;

(b) samples of marijuana or marijuana products collected by the department during inspections of licensed premises; and

(c) samples submitted by consumers or registered cardholders."

Section 15. Section 16-12-207, MCA, is amended to read:

"**16-12-207. Licensing as privilege -- criteria.** (1) A cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, combined-use marijuana license, marijuana transporter license, or any other license authorized under this chapter is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed licensed premises, including but not limited to cultivation centers, dispensaries, and manufacturing facilities.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary license, ~~or~~ medical marijuana license, or testing laboratory license if the applicant's proposed licensed

premises:

(i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the department;

(ii) is not approved by local building, health, or fire officials as provided for in this chapter; or

(iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school, unless the locality requires a greater distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was established before the church, synagogue, or other place of worship or school or postsecondary school existed on the same street.

(b) For the purposes of this subsection (3), "school" and "postsecondary school" have the meanings provided in 20-5-402.

(4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder in a vehicle that is parked immediately outside the subject dispensary.

(5) A marijuana business may not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises.

(6) A marijuana business may not utilize the United States postal service or an alternative carrier other than a licensed marijuana transporter to transport, distribute, ship, or otherwise deliver marijuana or marijuana products.

(7) A marijuana business may not provide free marijuana or marijuana products or offer samples of marijuana or marijuana products.

(8) Marijuana or a marijuana product may not be given as a prize, premium, or consideration for a lottery, contest, game of chance, game of skill, or competition of any kind.

(9) (a) Except as provided in subsection (9)(c), an adult-use dispensary or medical marijuana dispensary must have a single, secured entrance for patrons and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance in accordance with department rule.

(b) Except as provided in subsection (9)(c), a marijuana business that is not an adult-use dispensary or medical marijuana dispensary ~~must~~ shall implement security measures in accordance with department rule to deter and prevent the theft of marijuana and unauthorized entrance.

(c) The provisions of this subsection (9) do not supersede any state or local requirements relating to minimum numbers of points of entry or exit or any state or local requirements relating to fire safety.

(10) Each marijuana business shall install a video monitoring system that must, at a minimum:

(a) allow for the transmission and storage, by digital means, of a video feed that displays the interior and exterior of the cannabis establishment; and

(b) be capable of being recorded as prescribed by the department.

(11) An adult-use dispensary or medical marijuana dispensary may not operate between the hours of 8 p.m. and 9 a.m. daily.

(12) A person under 21 years of age is not permitted inside a marijuana business unless the person is an employee of the marijuana business or a registered cardholder."

Section 16. Section 16-12-208, MCA, is amended to read:

"**16-12-208. Restrictions.** (1) A cultivator or manufacturer may not cultivate marijuana or manufacture marijuana products in a manner that is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids.

(2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location other than the licensed premises approved by the department and within an enclosed area that is secured in a manner that prevents access by unauthorized persons.

(3) A licensee shall make the licensed premises, books, and records available to the department for inspection and audit under 16-12-210 during normal business hours.

(4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee.

(5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

(6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-

resistant exit packaging that complies with federal child resistance standards and is designed to be significantly difficult for children under 5 years of age to open and not difficult for adults to use properly.

(b) (i) Packaging of individual products may contain only the following design elements and language on a white label:

(A) the seller's business name and any accompanying logo or design mark;

(B) the name of the product; and

(C) the THC content or CBD content, health warning messages as provided in 16-12-215, and ingredients.

(ii) All packaging and outward labeling, including business logos and design marks, must also comply with any standards or criteria established by the department, including but not limited to allowable symbols and imagery.

(7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer hemp flower, hemp plants, or alcohol from a licensed premises.

(8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for ultimate sale to a consumer or registered cardholder, a licensee or license applicant shall submit both a package and a label application, in a form prescribed by the department, to receive approval from the department.

(b) The initial submission must be made electronically if required by the department. The licensee or license applicant shall submit a physical prototype upon request by the department.

(c) If a license applicant submits packages and labels for preapproval, final determination for packages and labels may not be made until the applicant has been issued a license.

(d) A packaging and label application must include:

(i) a fee provided for in rule by the department;

(ii) documentation that all exit packaging has been certified as child-resistant by a federally qualified third-party child-resistant package testing firm;

(iii) a picture or rendering of and description of the item to be placed in each package; and

(iv) for label applications for inhalable marijuana products that contain nonmarijuana additives:

(A) the nonmarijuana additive's list of ingredients; and

(B) in a form and manner prescribed by the department, information regarding the additive or additives and the manufacturer of the additive or additives.

(9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified receptacle into which marijuana or marijuana products already within a container are placed at the retail point of sale."

Section 17. Section 16-12-209, MCA, is amended to read:

"**16-12-209. Testing of marijuana and marijuana products.** (1) A cultivator, manufacturer, adult-use dispensary, or medical marijuana dispensary may not sell marijuana or marijuana products until the marijuana or marijuana products have been tested by a testing laboratory and meet the requirements of this section. The licensee shall pay for the testing.

(2) A licensee shall submit material that has been collected in accordance with a sampling protocol established by the ~~state laboratory~~ department by rule. The protocol must address the division of marijuana and marijuana products into batch sizes for testing.

(3) The ~~state laboratory~~ department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for:

(a) the potency of the cannabinoids present; and

(b) the presence of contaminants.

(4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of levels of foreign matter, debris, insects, and visible mold.

(5) The ~~state laboratory~~ department shall establish by rule the acceptable levels of moisture, pesticides, residual solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana products may contain.

(6) The testing laboratory shall:

(a) issue a certificate of analysis certifying the test results; and

(b) report the results to the seed-to-sale tracking system established pursuant to 16-12-105.

(7) A licensee may request that material that has failed to pass the required tests be retested in

accordance with the rules adopted by the ~~state laboratory~~ department providing for retesting parameters and requirements.

(8) Marijuana or a marijuana product must include a label indicating that the marijuana or marijuana product has been tested.

(9) (a) The department shall collect and, except as provided in subsection (9)(b), destroy samples of marijuana and marijuana products that fail to meet the acceptable levels to ensure product safety and consumer protection.

(b) If a sample fails due to THC levels in excess of the allowable limit and is not deficient in any other respect, the department may dispose of the sample by means other than destruction in accordance with rule.

(c) The department may contract for the duties under this subsection (9)."

Section 18. Section 16-12-210, MCA, is amended to read:

"**16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees.** (1) (a) The department shall conduct unannounced inspections of licensed premises.

(b) The department may not conduct more than two unannounced inspections of a licensed premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or there is other just and reasonable cause.

(2) (a) The department shall inspect annually each premises operated by a licensee.

(b) The department may collect samples during the inspection of a licensed premises and submit the samples to a testing laboratory ~~or the state laboratory~~ or the analytical laboratory authorized by 80-1-104 for testing as provided by the department by rule.

(3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with consumers and registered cardholders. The records must be open for inspection by the department ~~or state laboratory, as appropriate,~~ and state or local law enforcement agencies.

(b) Each testing laboratory shall keep:

(i) a complete set of records necessary to show all transactions with a licensee; and

(ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana

products.

(c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies.

(d) The department may require a licensee to furnish information that the department considers necessary for the proper administration of this chapter.

(4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation.

(b) If any part of a licensed premises consists of a locked area, the licensee shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials.

(5) The department may not hire or contract with a person to be an inspector if the person, during the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former medical marijuana licensee.

(6) In addition to any other penalties provided under this chapter, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon inspection and subsequent notice to the licensee, the department finds that any of the following circumstances exist:

(a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance;

(b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

(c) noncompliance with any provision of this chapter.

(7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances.

(8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act.

(b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate.

(c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision.

(9) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this chapter.

(10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under 16-12-110."

Section 19. Section 16-12-222, MCA, is amended to read:

"**16-12-222. Licensing of marijuana transporters.** (1) (a) A marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of marijuana and marijuana products. A marijuana transporter license is valid for 2 years. A licensed marijuana transporter is responsible for the marijuana and marijuana products ~~once~~ after it takes control of the marijuana or marijuana product.

(b) A marijuana transporter may contract with multiple licensed marijuana businesses.

(c) ~~On or after March 1, 2022, and except~~ Except as otherwise provided in this section, all persons who transport marijuana or marijuana products ~~shall~~ must hold a valid marijuana transporter license. ~~The department shall begin accepting applications on or after January 1, 2022. The department may allow for a reasonable grace period for complying with this requirement.~~

(d) The department shall establish by rule the requirements for licensure and the applicable fee for a marijuana transporter license or the renewal of a transporter license. The department may not license a person to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license under 16-12-203(2).

(2) A person who is not licensed under this chapter ~~must~~ shall apply for and obtain a marijuana transporter license in order to transport marijuana or marijuana products.

(3) A registered cardholder or consumer is not required to possess a marijuana transporter license when purchasing marijuana or marijuana products at a dispensary.

(4) A person who obtains a cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, or testing laboratory license or is an employee of one of those licensees, may:

(a) transport marijuana or marijuana products between other licensed premises without a transporter license so long as the transportation:

(i) complies with rules implementing the seed-to-sale tracking system set forth in 16-12-105; and

(ii) includes a printed manifest containing information as required by the department; and

(b) deliver marijuana from a dispensary to a registered cardholder provided that the person delivering the marijuana or marijuana products:

(i) complies with rules adopted by the department; and

(ii) includes a printed delivery manifest from a dispensary to a registered cardholder containing the registered cardholder's address and cardholder number and the dispensary's address and license number.

(5) (a) A marijuana transporter licensee may maintain a licensed premises to temporarily store marijuana and marijuana products and to use as a centralized distribution point in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(b) The licensed premises must be located in a jurisdiction that permits the operation of a marijuana business and comply with rules adopted by the department.

(c) A marijuana transporter may store and distribute marijuana and marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a license under this chapter.

(6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products throughout the state.

(7) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or registered cardholders only and may not make deliveries of marijuana or marijuana products to individual consumers.

(8) A person delivering marijuana or marijuana products for a marijuana transporter must possess a valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana transporter licensee."

Section 20. Section 16-12-223, MCA, is amended to read:

"**16-12-223. Licensing of cultivators.** (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility.

(b) Except as provided in subsection (6), the system ~~shall~~ must include, at a minimum, the following license types:

(i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility.

(ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility.

(iii) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two indoor cultivation facilities.

(iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities.

(v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities.

(vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities.

(vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor cultivation facilities.

(viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor

cultivation facilities.

(ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor cultivation facilities.

(x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor cultivation facilities.

(xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor cultivation facilities.

(xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor cultivation facilities.

(xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor cultivation facilities.

(c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(d) When evaluating an initial or renewal license application, the department shall evaluate each proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210.

(e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application by demonstrating that:

(A) the cultivator is using the full amount of canopy currently authorized;

(B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and

(C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election.

(ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by only one tier at a time.

(iii) Between January 1, 2022, and ~~June 30, 2023~~ June 30, 2025, a cultivator may, at any time, increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B).

(iv) The department shall conduct an inspection of the cultivator's registered premises and proposed premises within 30 days of receiving the application and before approving the application.

(f) A marijuana business that has not been issued a license before ~~July 1, 2023~~ July 1, 2025, must be initially licensed at a tier 2 canopy license or lower.

(2) The department is authorized to create additional tiers as necessary.

(3) The department may adopt rules:

(a) for inspection of proposed indoor cultivation facilities under subsection (1);

(b) for investigating owners or applicants for a determination of financial interest; and

(c) in consultation with the department of agriculture and based on well-supported science, to require licensees to adopt practices consistent with the prevention, introduction, and spread of insects, diseases, and other plant pests into Montana.

(4) Initial licensure and annual fees for these licensees are:

(a) $1,000 for a cultivator with a micro tier canopy license;

(b) $2,500 for a cultivator with a tier 1 canopy license;

(c) $5,000 for a cultivator with a tier 2 canopy license;

(d) $7,500 for a cultivator with a tier 3 canopy license;

(e) $10,000 for a cultivator with a tier 4 canopy license;

(f) $13,000 for a cultivator with a tier 5 canopy license;

(g) $15,000 for a cultivator with a tier 6 canopy license;

(h) $17,500 for a cultivator with a tier 7 canopy license;

(i) $20,000 for a cultivator with a tier 8 canopy license;

(j) $23,000 for a cultivator with a tier 9 canopy license;

(k) $27,000 for a cultivator with a tier 10 canopy license;

(l) $32,000 for a cultivator with a tier 11 canopy license; and

(m) $37,000 for a cultivator with a tier 12 canopy license.

(5) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each indoor cultivation facility used for cultivation under the licensure level.

(6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation."

Section 21. Section 16-12-225, MCA, is amended to read:

"**16-12-225. Combined-use marijuana licensing -- requirements.** (1) The department may issue a total of eight combined-use marijuana licenses to entities that are:

(a) a federally recognized tribe located in the state; or

(b) a business entity that is majority-owned by a federally recognized tribe located in the state.

(2) A combined-use marijuana license consists of one ~~tier 1~~ canopy license and one dispensary license allowing for the operation of a dispensary. ~~Cultivation and dispensary facilities must be located at the same licensed premises.~~

(3) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on land that is located~~:~~

~~(a) within 150 air-miles of the exterior boundary of the associated tribal reservation or, for the Little Shell Chippewa tribe only, within 150 air-miles of the tribal service area; and~~

~~(b)~~ in a county that has satisfied the local government approval provisions in 16-12-301 if the majority of voters in the county voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election.

(4) An applicant under this section must satisfy all licensing requirements under this chapter and is subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products provided for in this chapter.

(5) A license granted under this section must be operated in compliance with all requirements imposed under this chapter.

(6) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe

or another majority-owned business of that tribe may not obtain another combined-use license until the prior license is relinquished, lapses, or is revoked by the department."

Section 22. Section 16-12-226, MCA, is amended to read:

"**16-12-226. Marijuana worker permit -- requirements.** (1) A marijuana worker permit is required for an employee who performs work for or on behalf of a marijuana business if the individual participates in any aspect of the marijuana business.

(2) ~~(a) Except as provided in subsection (2)(b), a~~ A marijuana business may not allow an employee to perform any work at the licensed premises until it has verified that the employee has obtained a valid marijuana worker permit issued in accordance with this chapter.

~~(b) An employee of a former medical marijuana licensee in good standing with the department as of January 1, 2022, shall obtain a marijuana worker permit within 90 days of January 1, 2022.~~

(3) An applicant for a marijuana worker permit shall submit:

(a) an application on a form prescribed by the department with information including the applicant's:

(i) name;

(ii) mailing address;

(iii) date of birth;

(iv) signature; and

(v) response to conviction history questions requested by the department;

(b) a copy of a driver's license or identification card issued by one of the fifty states in the United States or a passport;

(c) annual proof of having passed training that includes identification, prevention, and reporting for human trafficking, rules and regulations for legal sales of marijuana in Montana, and any other training required by the department; and

(d) a fee established by the department.

(4) (a) Except as provided in subsection (4)(b), an application that does not contain the elements set forth in subsection (3) is incomplete.

(b) The department may review an application prior to receiving the fee but may not issue a permit until the fee is received.

(5) The department shall deny an initial or renewal application if the applicant:

(a) is not 18 years of age or older;

(b) has had a marijuana license or worker permit revoked for a violation of this chapter or any rule adopted under this chapter within 2 years of the date of the application;

(c) has violated any provision of this chapter; or

(d) makes a false statement to the department.

(6) An employee of a licensee shall carry the employee's worker permit at all times when performing work on behalf of a marijuana business.

(7) A person who holds a marijuana worker permit ~~must~~ shall notify the ~~department~~ person's employer in writing within 10 days of:

(a) a conviction for a felony;

(b) the issuance of any citation for violating a marijuana law imposed under this chapter or the marijuana laws of any other state; or

(c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor."

Section 23. Section 16-12-301, MCA, is amended to read:

"**16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees.** (1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until:

(i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to operate as provided in subsection (3) or (4); and

(ii) the business is licensed by the department pursuant to this chapter.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant

to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6).

(c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with ~~the department of public health and human services and~~ the department.

(d) For the purpose of this section, the marijuana business categories that must be approved by a local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may operate are:

(i) cultivator;

(ii) manufacturer;

(iii) medical marijuana dispensary, except as provided in subsection (1)(b);

(iv) adult-use dispensary;

(v) combined-use marijuana licensee;

(vi) testing laboratory; and

(vii) marijuana transporter facility.

(e) Marijuana businesses located in counties in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government approval process under subsections (3) through (6).

(2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(b) A former medical marijuana licensee that does not apply for licensure as an adult-use

dispensary is exempt from complying with any local governmental regulations that are adopted under this subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the expiration of any grace period granted by the locality, whichever is later.

(3) An election regarding whether to approve any or all of the marijuana business categories listed in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137 by:

(a) the qualified electors of a county; or

(b) the qualified electors of a municipality.

(4) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed in accordance with Title 13, chapter 1, part 4.

(b) An election pursuant to this section may be held in conjunction with a regular election of the governing body, general election, or a regular local or special election.

(5) If the qualified electors of a county vote to approve a type of marijuana business to be located in the jurisdiction, the governing body shall enter the approval into the records of the local government and notify the department of the election results.

(6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census:

(i) it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana business from being located in the municipality; and

(ii) the county shall conduct the election in a manner that separates the votes in the municipality from those in the remaining parts of the county.

(b) If a majority of the qualified electors in the county, including the qualified electors in the municipality, vote to approve a category of marijuana business to be located in the county, the county may allow that category of marijuana business to operate in the county.

(c) (i) If a majority of the qualified electors in the municipality vote to approve a category of marijuana business to be located in the municipality, the municipality may allow that type of marijuana business to operate in the municipality.

(ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana business from being located in the municipality, the municipality may not allow that type of marijuana business to operate in the municipality.

(d) Nothing contained in this subsection (6) prevents any municipality from having a separate election under the terms of this section.

(7) (a) A county or municipality that has voted to approve a category of marijuana business to be located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations within the jurisdiction.

(b) A vote overturning the approval of a category of marijuana business or prohibiting the previously permitted operation of marijuana businesses is effective on the 90th day after the local election is held.

(8) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this chapter."

Section 24. Section 16-12-302, MCA, is amended to read:

"**16-12-302. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is:

(a) a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory, or marijuana transporter or has a marijuana worker permit is guilty of a civil fine not to exceed $1,000; or

(b) a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

(2) An individual convicted under this section may not be licensed under this chapter.

(3) A physician who purposely and knowingly misrepresents any information required under 16-12-509 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed $1,000, or both."

Section 25. Section 16-12-310, MCA, is amended to read:

"**16-12-310. Limit on local-option marijuana excise tax rate -- goods subject to tax.** (1) The rate of the local-option marijuana excise tax must be established by the election petition or resolution provided for in 16-12-311, and the rate may not exceed 3%.

(2) The local-option marijuana excise tax is a tax on the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary within a county.

(3) If a county imposes a local-option marijuana excise tax:

(a) 50% of the resulting tax revenue must be retained by the county;

(b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio of the population of ~~the~~ each city or town to the ~~total county~~ population of municipalities within the county; and

(c) the remaining 5% of the resulting tax revenue must be retained by the department to defray costs associated with administering 16-12-309 through 16-12-312 and 16-12-317. The funds retained by the department under this subsection (3)(c) must be deposited into the marijuana state special revenue account established under 16-12-111.

(4) For the purposes of this section, "tax revenue" means the combined taxes collected under any local-option marijuana excise tax collected on retail sales within the county."

Section 26. Section 16-12-311, MCA, is amended to read:

"**16-12-311. Local government excise tax-- election required -- procedure -- notice.** (1) A county that has permitted an adult-use dispensary or medical marijuana dispensary to operate within its borders pursuant to 16-12-301 or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election, may not impose or, except as provided in this section, amend or repeal a local-option marijuana excise tax unless the local-option marijuana excise tax question has been approved by a majority of the qualified electors voting on the question.

(2) The local-option marijuana excise tax question may be presented to the qualified electors of a county by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-135, and 7-5-137 or by a

resolution of the governing body of the county.

(3) The petition or resolution referring the taxing question must state:

(a) the rate of the tax, which may not exceed 3% of the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary;

(b) the date when the tax becomes effective, which may not be earlier than 90 days after the election; and

(c) the purposes that may be funded by the tax revenue.

(4) On receipt of an adequate petition, the county's governing body shall hold an election in accordance with Title 13, chapter 1, part 5.

~~(5) (a) Before the local-option marijuana excise tax question is submitted to the electorate, the county shall provide notice of the goods subject to the local-option marijuana excise tax by a method described in 13-1-108.~~

~~(b) The notice must be given two times, with at least 6 days separating the notices. The first notice must be given not more than 45 days prior to the election, and the last notice must be given not less than 30 days prior to the election.~~

~~(6)~~(5) Notice of the election must be given as provided in 13-1-108 and include the information listed in subsection (3) of this section.

~~(7)~~(6) The question of the imposition of a local-option marijuana excise tax may not be placed before the qualified electors more than once in any fiscal year."

Section 27. Section 16-12-508, MCA, is amended to read:

"**16-12-508. Individuals with debilitating medical conditions -- requirements -- minors -- limitations.** (1) Except as provided in subsections (2) through (5), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the individual's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement, on a form prescribed by the department, that the individual will not divert to any other individual the marijuana or marijuana products that the individual cultivates, manufactures, or obtains through the system of licensed providers for the individual's debilitating medical condition;

(f) the name of the individual's treating physician or referral physician and the street address and telephone number of the physician's office;

(g) the street address where the individual is cultivating marijuana or manufacturing marijuana products if the individual is cultivating marijuana or manufacturing marijuana products for the individual's own use; and

(h) the written certification and accompanying statements from the individual's treating physician or referral physician as required pursuant to 16-12-509.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana;

(ii) indicates whether the minor's custodial parent or legal guardian will be obtaining marijuana or marijuana products for the minor through the system of licensed dispensaries provided for in this chapter; and

(iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and

(C) agrees that the minor will use only marijuana products <u>intended for use by a means other than smoking</u> and will not smoke marijuana;

(c) if the parent or guardian will be serving as the minor's cultivator, undergoes background checks in accordance with subsection (3). The parent or legal guardian shall pay the costs of the background check and may not obtain a license under this chapter if the parent or legal guardian does not meet the requirements set forth in this chapter.

(d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana purchased for the minor's use in a marijuana product.

(3) A parent serving as a minor's cultivator shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation upon the minor's initial application for a registry identification card and every 5 years after that. The department shall conduct a name-based background check in years when a fingerprint background check is not required.

(4) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 16-12-509 from a second physician in addition to the minor's treating physician or referral physician unless the minor's treating physician or referral physician is an oncologist, neurologist, or epileptologist.

(5) An individual may not be a registered cardholder if the individual is in the custody of or under the supervision of the department of corrections or a youth court."

Section 28. Section 20-1-220, MCA, is amended to read:

"**20-1-220. Use of marijuana and tobacco products in public school building or on public school property prohibited.** (1) An individual may not use a tobacco product, vapor product, marijuana product, or alternative nicotine product in a public school building or on public school property.

(2) (a) Subsection (1) does not apply to the use of a tobacco product, vapor product, marijuana product, or alternative nicotine product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product, vapor product, marijuana product, or alternative nicotine product.

(b) Subsection (1) does not apply to the use of a smoking cessation product by an employee.

(3) The principal of an elementary or secondary school, or the principal's designee, may enforce

this section.

(4) A violation of this section is subject to the penalties provided in 50-40-115.

(5) For the purposes of this section, the following definitions apply:

(a) "Alternative nicotine product" means a manufactured noncombustible product that contains nicotine derived from tobacco and that is intended for human consumption by being chewed, absorbed, dissolved, or ingested by any other means.

(b) (i) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer.

(ii) The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, marijuana concentrates, and marijuana intended for use by smoking or vaping.

~~(b)~~(c) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

(ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities, gymnasiums, locker rooms, and school buses.

~~(c)~~(d) "Tobacco product" means a substance intended for human consumption that contains tobacco, including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

~~(d)~~(e) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes:

(i) an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device; and

(ii) a vapor cartridge or other container in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product and device."

NEW SECTION. **Section 29. Repealer.** The following sections of the Montana Code Annotated are repealed:

16-12-524. Fraudulent representation -- penalties.

16-12-532. Legislative monitoring.

NEW SECTION. **Section 30. Appropriation.** ~~There~~ FOR THE BIENNIUM BEGINNING JULY 1, 2023, THERE is appropriated ~~$149,285.58~~ $405,788 from the marijuana state special revenue account provided for in 16-12-111 to the department of revenue, which comprises ~~2~~ 1.5 FTE transferred from the department of public health and human services to the department of revenue AND 0.5 NEW FTE FOR THE DEPARTMENT OF REVENUE FROM HOUSE BILL NO. 2.

NEW SECTION. **Section 31. Transition.** (1) The legislature directs the department of public health and human services to assist the department of revenue with the transfer of FTE, information, materials, and any other marijuana-related assets that the department of revenue considers necessary to implement the regulation of marijuana testing laboratories in the state and exercise authority over the regulation of marijuana testing laboratory licensees in the state.

(2) On July 1, 2023, the department of public health and human services shall transfer to the department of revenue the existing endorsements for any marijuana testing laboratory licensees. Existing endorsements transferred pursuant to this section must be accepted and administered by the department of revenue.

NEW SECTION. **Section 32. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

NEW SECTION. **Section 33. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2023.

(2) [Sections 3, 8, 11, 13, 20, and 21] and this section are effective on passage and approval.

(3) [Sections 12, 14, 15, 17, 18, ~~and~~ 23, AND 30] are effective July 1, 2023.

- END -

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:	
HB0128 - Generally revise marijuana laws (Kassmier, Joshua)	
Status:	As Introduced

☐Significant Local Gov Impact ☒Needs to be included in HB 2 ☒Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	($11,475)	($14,495)	($11,983)	($9,429)
Revenue:				
General Fund	$0	$0	$0	$0
State Special Revenue	($11,475)	($14,495)	($11,983)	($9,429)
Net Impact-General Fund Balance:	$0	$0	$0	$0

Description of fiscal impact: HB 128 cleans up many components of the administration of adult-use and medical marijuana and transfers the administration of marijuana testing labs from the Department of Public Health and Human Services (DPHHS) to the Department of Revenue (DOR). This would result in an additional 2.00 FTE for the department, 1.50 of which will be transferred from DPHHS. The bill contains an appropriation for spending by DOR.

FISCAL ANALYSIS

Assumptions:

Department of Revenue (DOR)

1. HB 128 makes numerous clean-up changes to DOR's administration of the adult-use and medical marijuana industry in Montana.
2. Some of the changes make compliance and licensing easier, such as removing some background check requirements, and clarifying some age restrictions and limitations.
3. HB 128 extends the moratorium on new licenses from July 1, 2023, to July 1, 2025. This is not expected to significantly change total sales or tax revenue, because there is no indication of any supply shortage, meaning sales are being dictated by consumer demand.

4. The bill also transfers authority over marijuana testing labs from DPHHS to DOR, which will require two new positions, with 1.50 FTE transferring from DPHHS to DOR and 0.50 new FTE for DOR.
5. The total additional cost to DOR would be $191,419 for FY 2024, $188,399 for FY 2025, $190,911 for FY 2026, and $193,465 for FY 2027.
6. Authority transferred from DPHHS, in excess of personal services and operating costs at DOR, is listed as Excess Authority in the summary tables on pages 3 and 4.

Department of Public Health and Human Services (DPHHS)

7. To meet the requirement of HB 129, the Public Health and Safety Division (PHSD) would transfer 2.00 permanent FTE to the DOR.
8. Salary and benefits for the two FTE positions within PHSD are $159,024 in FY 2024 and $159,024 in FY 2025.
9. Additional state special authority for cannabis fund in the DPHHS budget will also be transferred to DOR. Total authority transferred to DOR is $102,894 in each year of the 2025 Biennium.

Department of Public Health and Human Services Impact

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Fiscal Impact:				
FTE	(2.00)	(2.00)	(2.00)	(2.00)
Expenditures:				
Personal Services	($159,024)	($159,024)	($159,024)	($159,024)
Operating Expenses	($43,870)	($43,870)	($43,870)	($43,870)
TOTAL Expenditures	($202,894)	($202,894)	($202,894)	($202,894)
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	($202,894)	($202,894)	($202,894)	($202,894)
TOTAL Funding of Exp.	($202,894)	($202,894)	($202,894)	($202,894)
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$202,894	$202,894	$202,894	$202,894

Department of Revenue

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Fiscal Impact:				
FTE	2.00	2.00	2.00	2.00
Expenditures:				
Personal Services	$168,303	$171,005	$173,191	$175,409
Operating Expenses	$23,116	$17,394	$17,720	$18,056
TOTAL Expenditures	$191,419	$188,399	$190,911	$193,465
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$191,419	$188,399	$190,911	$193,465
TOTAL Funding of Exp.	$191,419	$188,399	$190,911	$193,465
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	($191,419)	($188,399)	($190,911)	($193,465)

STATEWIDE IMPACT

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Fiscal Impact:				
FTE	0.00	0.00	0.00	0.00
Expenditures:				
Personal Services	$9,279	$11,981	$14,167	$16,385
Operating Expenses	($20,754)	($26,476)	($26,150)	($25,814)
TOTAL Expenditures	($11,475)	($14,495)	($11,983)	($9,429)
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	($11,475)	($14,495)	($11,983)	($9,429)
TOTAL Funding of Exp.	($11,475)	($14,495)	($11,983)	($9,429)
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$11,475	$14,495	$11,983	$9,429

Technical Notes:

1. Section 21 (2) on page 57 should be amended to change "canopy" to "cultivator" because canopy is outdated language.
2. 1.50 FTEs were established in the implementation of HB 598 from the 2019 session. .50 FTE was inactivated in 2020. Only one permanent position can be transferred from DPHHS to DOR, the second FTE working for this program is in a modified position that will need to be created at DOR.
3. During the implementation of HB 598 from the 2019 Session, 1.50 FTE were established in the DPHHS budget. Language in Section 30 references the transfer of 2 FTE from DPHHS. In addition, the appropriation in Section 30 does not align with the base appropriations for the funds in the DPHHS budget. Section 30 should be amended to read, "Appropriation. There is appropriated ~~$149,285.58~~ $244,970 from the marijuana state special revenue account provided for in 16-12-111, MCA, to the Department of Revenue, which comprises 1.50 FTE transferred from the department of Public Health and Human Services to the Department of Revenue and 0.50 new FTE for the Department of Revenue." The $244,970 is made up of $202,984 in transfer authority from DPHHS and $42,076 for the additional 0.5 FTE for DOR.
4. The effective date for section 30 should be July 1, 2023, instead of October 1, 2023.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*
SJS	1-6-23		1-5-23

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:	
HB0128 - Generally revise marijuana laws (Kassmier, Joshua)	
Status:	As Amended in House Committee

☐Significant Local Gov Impact ☒Needs to be included in HB 2 ☒Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	($11,475)	($14,495)	($11,983)	($9,429)
Revenue:				
General Fund	$0	$0	$0	$0
State Special Revenue	($11,475)	($14,495)	($11,983)	($9,429)
Net Impact-General Fund Balance:	$0	$0	$0	$0

Description of fiscal impact: HB 128 clarifies many components of the administration of adult-use and medical marijuana and transfers the administration of marijuana testing labs from the Department of Public Health and Human Services (DPHHS) to the Department of Revenue (DOR). This would result in an additional 2.00 FTE for the department, 1.50 of which will be transferred from DPHHS. The bill contains an appropriation for spending by DOR.

FISCAL ANALYSIS

Assumptions:

Department of Revenue (DOR)

1. HB 128 makes clarifying changes to DOR's administration of the adult-use and medical marijuana industry in Montana.
2. The amendments made in House Business and Labor Committee changes the date in the definition of "former medical marijuana licensee" to December 31, 2021, and corrects the appropriation amount in section 30 to equal the current budget authority for managing the state laboratory at DPHHS, and to clarify the 1.50 FTE transferred to DOR and 0.50 new FTE for DOR from HB 2.

3. Some of the changes make compliance and licensing easier, such as removing some background check requirements, and clarifying some age restrictions and limitations.
4. HB 128 extends the moratorium on new licenses from July 1, 2023, to July 1, 2025. This is not expected to significantly change total sales or tax revenue, because there is no indication of any supply shortage, meaning sales are being dictated by consumer demand.
5. The bill also transfers authority over marijuana testing labs from DPHHS to DOR, which will require two new positions, with 1.50 FTE transferring from DPHHS to DOR and 0.50 new FTE for DOR.
6. The total additional cost to DOR would be $191,419 for FY 2024, $188,399 for FY 2025, $190,911 for FY 2026, and $193,465 for FY 2027.
7. Authority transferred from DPHHS, in excess of personal services and operating costs at DOR, is listed as Excess Authority in the summary tables on pages 3 and 4.

Department of Public Health and Human Services (DPHHS)

8. To meet the requirement of HB 129, the Public Health and Safety Division (PHSD) would transfer 2.00 permanent FTE to the DOR.
9. Salary and benefits for the 1.50 FTE positions within PHSD are $120,334 in each year of the 2025 Biennium.
10. Additional state special authority for cannabis fund in the DPHHS budget will also be transferred to DOR. Total authority transferred to DOR is $202,894 in each year of the 2025 Biennium.

Department of Public Health and Human Services Impact

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Fiscal Impact:				
FTE	(1.50)	(1.50)	(1.50)	(1.50)
Expenditures:				
Personal Services	($120,334)	($120,334)	($120,334)	($120,334)
Operating Expenses	($82,560)	($82,560)	($82,560)	($82,560)
TOTAL Expenditures	($202,894)	($202,894)	($202,894)	($202,894)
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	($202,894)	($202,894)	($202,894)	($202,894)
TOTAL Funding of Exp.	($202,894)	($202,894)	($202,894)	($202,894)
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$202,894	$202,894	$202,894	$202,894

Department of Revenue

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Fiscal Impact:				
FTE	2.00	2.00	2.00	2.00
Expenditures:				
Personal Services	$168,303	$171,005	$173,191	$175,409
Operating Expenses	$23,116	$17,394	$17,720	$18,056
TOTAL Expenditures	$191,419	$188,399	$190,911	$193,465
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$191,419	$188,399	$190,911	$193,465
TOTAL Funding of Exp.	$191,419	$188,399	$190,911	$193,465
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	($191,419)	($188,399)	($190,911)	($193,465)

STATEWIDE IMPACT	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Fiscal Impact:				
FTE	0.50	0.50	0.50	0.50
Expenditures:				
Personal Services	$47,969	$50,671	$52,857	$55,075
Operating Expenses	($59,444)	($65,166)	($64,840)	($64,504)
TOTAL Expenditures	($11,475)	($14,495)	($11,983)	($9,429)
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	($11,475)	($14,495)	($11,983)	($9,429)
TOTAL Funding of Exp.	($11,475)	($14,495)	($11,983)	($9,429)
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$11,475	$14,495	$11,983	$9,429

Technical Notes:

1. Section 21 (2) on page 57 should be amended to change "canopy" to "cultivator" because canopy is outdated language.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*
JC	3-30-23		3-29-23